

Notice of Exemption

Project Title: Settlement Agreement between California Air Resources Board (CARB) and American Honda Motor Co., Inc.

Settlement Agreement between California Air Resources Board (CARB) and BMW of North America, LLC and Rolls-Royce Motor Cars NA, LLC

Settlement Agreement between California Air Resources Board (CARB) and Ford Motor Company

Settlement Agreement between California Air Resources Board (CARB) and Volkswagen Group of America, Inc.

Settlement Agreement between California Air Resources Board (CARB) and Volvo Car USA, LLC

(Collectively, Settlement Agreements)

Project Location: Statewide

Public Meeting Date: None

Project Description: Execution of Settlement Agreements between CARB and the OEMs, identified above, regarding continued reductions in greenhouse gas emissions during a period of litigation uncertainty. The Settlement Agreements' terms include, but are not limited to, auto manufacturers' commitments to reduce greenhouse gas emissions and to promote zero emission technologies and CARB's commitments to exercise its enforcement discretion in ways that recognize the auto manufacturers' commitments.

This notice is to advise that CARB, as the lead agency, approved the Settlement Agreements with the original equipment manufacturers (OEMs) identified above, on August 17, 2020. To the extent the Settlement Agreements require CEQA analysis, CARB, out of an abundance of caution, is providing this notice.

The Settlement Agreements set forth a number of substantive terms, the OEMs' compliance with which will not result in a significant negative effect on the environment. The OEMs agree to produce light and medium duty vehicles consistent with specified greenhouse gas (GHG) fleet

targets. The OEMs are not required to produce specific vehicles to meet the GHG targets, which are fleet targets (and which may be achieved in part using credits traded with other companies), and CARB understands that the OEMs have current capacity at their manufacturing facilities to accommodate any technological upgrades required to comply with the GHG targets. The Settlement Agreements do not govern the OEMs' existing and ongoing obligations under California's separate zero emissions vehicle (ZEV) standards, though the companies have committed to company-specific enhancements to ZEV marketing and dealer training programs. The OEMs do not need to build new facilities to comply with the GHG targets.

The Settlement Agreements are exempt under CEQA (if they constitute a project at all) for the following reasons:

CARB has determined that these Settlement Agreements are exempt from CEQA under the "common sense" exemption (Title 14 CCR § 15061(b)(3)). "[T]he activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Based on CARB's review it can be seen with certainty that there is no possibility that the Settlement Agreements would result in a significant adverse impact on the environment. The Settlement Agreements have beneficial effects on the environment because the OEMs will produce car fleets that will have fewer GHG and criteria air pollutant emissions than the cars they currently are allowed to manufacture and sell under current law. Moreover, the Settlement Agreements will produce greater greenhouse gas reductions than California's GHG standards or federal GHG standards (both of which are currently in active litigation) would otherwise foreseeably produce. Further, the Settlement Agreements will not directly require the OEMs to build new or expanded facilities and will not therefore cause any land disturbance and adverse effects on resource areas subject to CEQA review. Finally, since the Settlement Agreements do not require the OEMs to meet specific zero emission vehicle fleet targets, it would be speculative to conclude that the OEMs' compliance with the Settlement Agreements will have an adverse impact on mineral resources to support lithium battery development. Thus, it can be seen with certainty that there is no possibility that the Settlement Agreements would result in significant adverse impacts on the environment.

The Settlement Agreements are also categorically exempt from CEQA under the "Class 8" exemption (Title 14 CCR § 15308) because they are actions taken by a regulatory agency for the protection of the environment. Each Settlement Agreement explicitly recognizes that it is being executed consistent with CARB's obligations to protect the environment, and secures deeper emissions reductions than would otherwise occur. Therefore, the Settlement Agreements are designed to protect the environment and, for the additional reasons stated above, CARB found no substantial evidence indicating they could adversely affect air quality or any other environmental resource area subject to CEQA review, or that any of the exceptions to the exemption apply (14 CCR 15300.2).

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Additionally, the Settlement Agreements are categorically exempt from CEQA under the "Class 21" exemption (Title 14 CCR § 15321) because they are rooted in CARB's enforcement discretion. Accordingly, in determining that settlement is appropriate, CARB is enforcing a law, general rule, standard or objective, administered or adopted by it. The Settlement Agreements are fundamentally a mechanism to ensure that CARB meets climate and public health targets set forth under its governing laws, and set out the terms by which CARB will enforce relevant laws. CARB is exercising its enforcement discretion to accept OEMs' compliance with the terms outlined in the Settlement Agreements as agreed upon voluntary compliance plans and enforcement settlements to achieve CARB's emission reduction objectives through Model Year 2026 despite ongoing litigation uncertainty.

The **Settlement Agreements** are available for public inspection on the CARB webpage.

These documents may also be examined at:

California Air Resources Board
Attn: Board Administration and Regulatory Coordination Unit
1001 I Street
Sacramento, CA 95814

Certified: Nicole Haven
CARB CEQA Unit

Date: 8/17/2020

Sacramento Office of Planning & Research
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STATE CLEARINGHOUSE