

December 15, 2023

**VIA EMAIL (jack.kitowski@arb.ca.gov)**

Mr. Jack Kitowski  
Division Chief, Mobile Source Control Division  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95812-2815

Dear Jack:

As we have discussed, we are seeking clarity on several potential scenarios impacting the ability of California based dealers and bodybuilders (collectively referred to as “a CA Dealer”) to acquire for sale outside of California engines/vehicles that are not subject to the caps and/or offsets associated with CARB’s Omnibus rules. Specifically, those non-capped, non-offset engines/vehicles could either be EPA only certified products or CARB certified products not labeled for sale in California (collectively referred to as non-CA products).

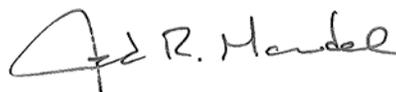
We have identified four specific scenarios all applicable to a CA Dealer:

1. A CA Dealer sells a non-CA product to a customer out of state and never takes possession of the product in California.
2. A CA Dealer takes possession of a non-CA product in California and it either transports or drives it for delivery to an out of state customer (who never takes possession of it in California).
3. A CA Dealer takes possession of a non-CA product in California and sells it to an out of state customer who themselves takes possession of it in California and directly drives or transports it out of state.
4. The same scenario as #3 except the customer picks up a load or otherwise puts the product in service in the process of taking the non-CA product out of state.

Based on our discussion, I am asking you to confirm that scenarios 1-3 above are legal and will not create liability for either the OEM or the CA Dealer. Please also confirm that CARB is still considering whether scenario 4 creates potential liability and that, for now, it is not willing to confirm that there is no liability.

I look forward to your prompt response. Thanks.

Very truly yours,



Jed R. Mandel