EARTHJUSTICE

June 9, 2022

Chair Liane Randolph
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments on Proposed Advanced Clean Cars II Regulation

Dear Chair Randolph and Board Members:

Thank you for the opportunity to submit comments on the proposed Advanced Clean Cars II rule. Transportation electrification is critical to improving air quality throughout the state and mitigating climate change, and we appreciate that the California Air Resources Board is proposing a regulation that will transition the state to 100% zero-emission passenger vehicles. We write in response to industry comments regarding the legality of the proposed regulation and ask that CARB strengthen the proposed rule including the equity program.

Earthjustice has engaged in this rulemaking process for nearly two years and conducted an extensive review of the record. Industry challenges to CARB's record are baseless and unfounded, as the record is complete and satisfies state law requirements. CARB staff have provided a robust and comprehensive assessment of the economic and environmental impacts of the proposed regulation. Staff's analysis of the regulation's statewide economic impacts considers impacts to employment across all industries, including petroleum and coal products manufacturing, and increases or decreases of investment in California.[1] In the feasibility determination, staff also appropriately take into consideration infrastructure needs and grid reliability within California and across the nation, which is essential to supporting the state's transition to 100% zero-emission vehicles.[2] CARB's proposed regulation also aligns with action being taken at the federal level to accelerate deployment of zero-emission vehicles and infrastructure.[3]

Contrary to industry claims, CARB has clear legal authority under the federal Clean Air Act to establish its own vehicle standards, including a zero-emission vehicle sales mandate.[4] The regulation, as currently proposed, falls well within CARB's authority under both federal and state law. Emission reductions associated with the transition to 100% zero-emission vehicles are necessary for California to meet state and federal statutory requirements.[5] In fact, staff's analysis supports strengthening of the rule, specifically acceleration of the interim targets. Staff's analysis demonstrates that increased stringency will result in greater health benefits sooner.[6] Moreover, given the state of technology and projected market growth,

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[1] California Air Resources Board, Proposed Advanced Clean Cars II Regulations, Initial Statement of Reasons (Apr. 2022), 168-171, 172 [hereinafter ISOR]; California Air Resources Board, Proposed Advanced Clean Cars II Regulations, Standardized Regulatory Impact Assessment (Mar. 2022), 116-130 [hereinafter SRIA].
[2] ISOR at 24-35; SRIA at 40-41, 89-91, 169-171.
[3] See Attachment 1.
[4] 42 U.S.C. § 7543(b); ISOR, 10-11.
[5] ISOR, 4-10.
[6] *Id.* at 174-177.

accelerated targets are technically feasible.[7] CARB's model shows that the proposed regulation lags far behind the aggressive deployment scenario ("as soon as possible") and even lags behind the "slow phase-in" scenario—showing OEMs could meet a much stronger sales requirement without accelerating beyond a "conventional redesign schedule."[8]

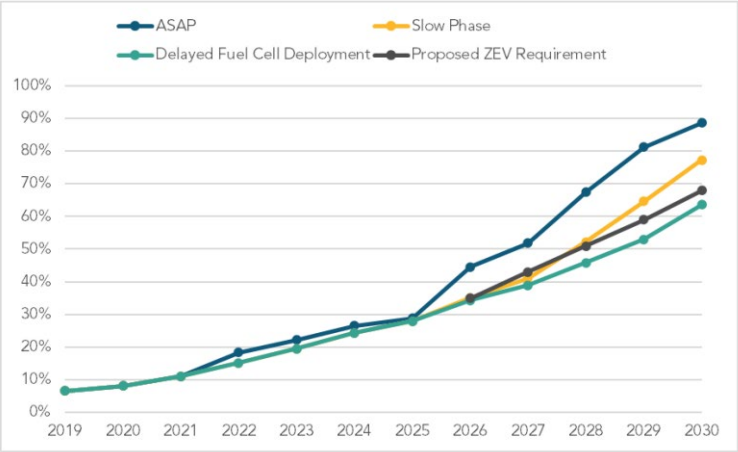

Figure 1. CARB Analysis of Model Turnover Scenarios[9]

We also recommend that CARB revise the equity provisions to ensure greater participation from auto manufacturers. CARB should allow use of credit flexibilities only for auto manufacturers that generate environmental justice credits.

We appreciate your consideration of these comments and urge CARB to adopt a stronger Advanced Clean Cars II regulation that ensures increased affordability and access to zero-emission vehicles in frontline communities.

Sincerely,

Regina Hsu
Adrian Martinez

[7] *Id.* at 13-20.
[8] *Id*. at 41.
[9] *Id*.

ATTACHMENT 1

BRIEFING ROOM

FACT SHEET: Biden-Harris Administration Proposes New Standards for National Electric Vehicle Charging Network

JUNE 09, 2022 • STATEMENTS AND RELEASES

Bipartisan Infrastructure Law Investments to Enable Families to Plug-In, Charge Up, and Drive Across America

Today, the Biden-Harris Administration is announcing new steps to meet President Biden's goal to build out the first-ever national network of 500,000 electric vehicle chargers along America's highways and in communities, a key piece of the Bipartisan Infrastructure Law.

The Department of Transportation, in partnership with the Department of Energy, is proposing new standards to make charging electric vehicles (EVs) a convenient, reliable, and affordable for all Americans, including when driving long distances. Without strong standards, chargers would be less reliable, may not work for all cars, or lack common payment methods. The new standards will ensure everyone can use the network –no matter what car you drive or which state you charge in.

The proposed standards, along with new coordinated federal actions on EVs, support President's Biden's priorities to lower costs for families, create good-paying jobs, and combat climate change. He is pressing Congress on his plan to provide tax credits that make EVs more affordable, so families' budgets aren't hurt by volatile gas prices. The actions will spur good-paying jobs with strong workforce requirements for America's steelworkers, electrical workers, and laborers to build, install, and maintain the network. And, making chargers and EVs more accessible will help tackle the climate crisis – reducing emissions, increasing cleaner air, and advancing the President's Justice40 Initiative.

Thanks to President Biden's bold vision, leadership, and actions EV sales have doubled since he took office, and there are now more than two million EVs and 100,000 chargers on the road. The Biden Administration has positioned the United States to lead the electric future and make it in America:

- Secured historic investments in the Bipartisan Infrastructure Law – $7.5 billion for EV charging infrastructure and more than $7 billion for the critical minerals supply chains necessary for batteries, components, materials, and recycling.
- United automakers and autoworkers around an ambitious target for 50% of new vehicles sold in 2030 to be electric.
- Triggered a string of investment commitments of over $100 billion from private companies to make more EVs and their parts in America, create jobs for our autoworkers, and strengthen our domestic supply chains.
- Activated the purchasing power of the federal government to procure 100% zero-emission light-duty vehicles by 2027 and all vehicles by 2035.
- Finalized the strongest passenger vehicle emissions and fuel economy standards in history.

Historic Infrastructure Investments in Charging

The $7.5 billion for EV charging infrastructure in President Biden's Bipartisan Infrastructure Law will build a convenient and equitable charging network through two programs. The National Electric Vehicle Infrastructure (NEVI) program will provide $5 billion in formula funding to States to build out charging infrastructure along highway corridors – filling gaps in rural, disadvantaged, and hard-to-reach locations while instilling public confidence in charging. Today's minimum standards and requirements will guide States on how to spend federal funds in a way that makes chargers function the same from state-to-state, easy to find, use, and pay for, no matter who operates chargers. The Bipartisan Infrastructure Law also provides $2.5 billion in competitive grants to support community and corridor charging, improve local air quality, and increase EV charging access in underserved and overburdened communities. DOT will open applications for this program later this year.

These federal charging programs were designed to catalyze additional private sector investments that complement the build-out of a user-friendly, cost-saving, and financially sustainable national EV charging network. Together, President Biden's leadership is mobilizing public and private charging investment to accelerate the adoption of EVs and create good-paying jobs across manufacturing, installation, and operation. These chargers will also make sure the new renewable electricity sources like solar and wind can power the cars we drive and reduce energy costs for families.

Setting the Standard

The Bipartisan Infrastructure Law also established a Joint Office of Energy and Transportation to work hand-in-hand with States, industry leaders, manufacturers, and other stakeholders to meet the President's goals. And to ensure that this electric transformation is both timely and equitable, Vice President Harris launched an EV Charging Action Plan that fast tracks federal investments and targets equity benefits for disadvantaged communities – and the Department of Transportation released a Rural EV toolkit to help ensure all Americans, regardless of where they live, have the opportunity to benefit from the lower operating costs, reduced maintenance needs, and improved performance that EVs provide. These investments, steered by the standards proposed today, will create a public charging system that meets our goals of being reliable, affordable, equitable and seamless between states and networks. They will also use workforce standards such as the Electric Vehicle Infrastructure Training Program (EVITP) to increase the safety and reliability of charging station's functionality and usability – creating and supporting good-paying, highly-skilled union jobs in communities across the country.

Additional Steps to Drive Progress

Today, as part of an Administration-wide strategy, the Biden-Harris Administration is announcing a fleet of actions from nine federal agencies across the charging ecosystem to complement the NEVI program – creating good-paying jobs in the U.S., reducing emissions, and putting us on a path to net-zero emissions by 2050.

- **The Joint Office of Energy and Transportation** announced the formation of a new Federal Advisory Committee called the EV Working Group that will be a key advisory body to "make recommendations regarding the development, adoption, and integration of light-, medium-, and heavy-duty electric vehicles into the transportation and energy systems of the United States," including on infrastructure topics. The 25 members will be selected in the coming months. The joint office also announced a partnership to support EV charging with the American Public Power Association, Edison Electric Institute, and National Rural Electric Cooperative Association to inform electric system investments and support state planning.

- **The Department of Energy** announced $45 million through its "EVs4ALL" program to develop very fast charging batteries to complement the rollout of the public charging network. They are also preparing multiple funding topics for projects that offer EV charging solutions for drivers who lack access to home charging or who live in underserved communities. DOE's Vehicle Technologies Office anticipates up to $30M in funding opportunities to support clean energy mobility pilots and demonstration in underserved and rural areas. The opportunity will seek projects to deploy EV charging solutions for drivers with no home charging and projects that will engage underserved

communities to develop community-driven EV charging plans and install EV chargers in locations that maximize benefits to underserved communities.

- **The Department of Agriculture** developed an EV charging resource guide and funding eligibility infographic for rural property owners, states and territories, Tribes, municipalities, cooperatives, and non- and for-profit entities to assist those looking to make the transition to electric. They also developed a climate smart schools guide that includes information on funding for charging for rural school districts. In addition, USDA signed a Memorandum of Understanding with the Department of Energy to address EV supply equipment and related charging infrastructure.

- **The General Services Administration** created Blanket Purchase Agreements for federal agencies and other eligible users to seamlessly acquire an array of EV chargers and services at federally owned, managed, and occupied facilities. They also published a 'Guide to Building Owners' that details the relationship between EV charging and building electricity loads – ensuring that buildings are equipped to handle new charging infrastructure, and optimize existing chargers. Through their Green Proving Ground program, GSA is working closely with the Department of Energy to install and pilot EV charging innovations, including managed and bidirectional charging, at selected GSA facilities and to accelerate market acceptance. In addition, GSA's Public Buildings Service established an Interagency Agreement with the Department of Veterans Affairs to install EV charging stations at approximately 60 Veterans Affairs locations at a value greater than $40 million.

- **The National Park Service** established an interdisciplinary EV Working Group that is developing a national strategy for electrifying their government fleets, public-serving transit fleets, and public-use charging infrastructure. They are in the process of transitioning Zion National Park's transit fleet to battery-electric buses with $33 million in funding from the Department of Transportation's Nationally Significant Federal Lands and Tribal Projects program – with plans to pursue the same program to electrify transit at Grand Canyon National Park next year. In addition, NPS is working with State DOTs to fill charging gaps in corridors and routes that serve as gateways to national parks.

- **The Department of Housing and Urban Development** has continued to support the inclusion of EV charging infrastructure as part of its green building standards through several of its housing financing programs. In addition, they are exploring the installation of EV chargers in multi-family rental housing as part of their Green Mortgage Insurance Premium incentive – lowering annual premiums for participants.

- **The Environmental Protection Agency** created a Clean School Bus Program through the Bipartisan Infrastructure Law to replace the nation's fleet of dirty diesel buses, with clean, American-made, zero-emission buses. EPA released $500 million in the first round of funding for this $5 billion program, and schools can use portions of this funding to build-out needed EV charging infrastructure for these new, clean school buses. In addition, there are now 300 different Level 2 EV charger products available under the EPA's ENERGY STAR program.

- **The Department of Defense** launched a pilot project to install 20 Level 2 EV chargers for government fleet vehicles at the Pentagon along with a planning study for future additional installations. The Senior Pentagon Climate Working Group also created a sub-working group focused solely on removing barriers to installing EV charging infrastructure that supports the Department's zero-emission vehicle acquisition goals.

- **The Department of Commerce** is supporting the build-out of the domestic EV charging supply chain and promoting foreign direct investment in American EV charging and supply equipment manufacturing. At the end of June, they will host the 2022 SelectUSA Investment Summit – the highest-profile event promoting foreign direct investment in the U.S. – where they will highlight investment opportunities in EV charging catalyzed by the Bipartisan Infrastructure Law. In addition, DOC's Hollings Manufacturing Extension Partnership provides hands on assistance to manufactures across 51 centers, in every state and Puerto Rico, to address unmet needs in the EV charging supply chain and help traditional automotive suppliers diversify their customer base and enter into the EV charging market.

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