COMMENTS ON:

Proposed Advanced Clean Cars II Regulation: 15-day Changes

California Air Resources Board
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by the
<u>Natural Resources Defense Council (NRDC)</u>

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The Natural Resources Defense Council ("NRDC") strongly supports the California Air Resources Board's ("ARB" or "CARB") Advanced Clean Cars II ("ACC II") proposal and urges the Board to adopt these regulations, with the amendments outlined in the 15-day changes, expeditiously. While there are components of the 15-day change proposal package that we do not support—the addition of Fuel Cell Electric Vehicle ("FCEV") proportional credits and a lack of focus on equity—we nevertheless strongly recommend that the Board move forward with this amended regulation, and work outside this regulatory process to increase equitable access to zero-emission transportation. Failure of the Board to move forward with these regulations would be detrimental to California's air quality and residents' health. These comments supplement to our testimony (June 9, 2022), our response to Western States Petroleum Association ("WSPA") (June 9, 2022), as well as our earlier written comments submitted (May 31, 2022).[1]

1. **The Board should adopt language in a resolution that directs staff to develop complementary policies and programs to ensure benefits of zero-emission vehicles in disadvantaged communities.**

The California Clean Cars Coalition—which includes NRDC and over 40 equity health, and environmental justice organizations—has also submitted comments on the 15-day changes. We support those comments—which highlight the lack of strong equity provisions in ACCII—as well as the recommendations outlined in the Coalition letter. We therefore urge the Board to adopt the Coalition's proposed resolution language that directs Staff to strengthen ARB's commitment to equity in all actions outside of the ACCII regulation.

2. **Allowing for Fuel Cell Electric Vehicles (FCEVs) to earn proportional credits will keep sales in California and provide limited—if any—benefits to other states.**

We do not support the addition of the proportional credits for FCEVs that are included in the 15-day changes. Proportional credits allow for manufacturers to "double count" their FCEV credits in all Section 177 states, with only one of the states actually seeing the emissions reduction benefits with the zero-emission vehicle. Earning proportional credits during the early years of ACCII allows for manufacturers pursuing FCEVs to stymie deployment of their

[1] NRDC Comments on ACC II, May 31, 2022, https://www.arb.ca.gov/lispub/comm/iframe_bccomdisp.php?listname=accii2022&comment_num=403&virt_num=98

vehicles to other states until after model year 2030. We are in a climate emergency—a recording breaking heat-wave just swept across the United States,[2] droughts and floods are increasing, and wildfires—which can further exacerbate poor air quality—are becoming more widespread.[3] Therefore, we should not be allowing delays of zero-emission vehicle deployment at this critical time. Further, we believe that there are already sufficient pathways for manufacturers to achieve compliance with ACCII through the flexibilities already in place in the regulation—such as early compliance, use of historical ACCI credits, and the environmental justice credits—and this additional flexibility is archaic and unnecessary.

3. **Allowing for Manufacturers to start placing vehicles in community car-share programs in 2024 can provide earlier benefits to environmental justice communities.**

We are supportive of allowing manufacturers to earn environmental justice vehicle values for vehicles placed community car-share programs prior to the start of ACCII. In the Initial Statement of Reasons ("ISOR"), manufacturers could earn additional vehicle values for new ZEVs and PHEVs provided for use in community-based clean mobility programs, for model years 2026-2031. In the 15-day changes, manufacturers are now able to earn vehicle values on this environmental justice program starting in model year 2024. Providing an additional two years of flexibility to place ZEVs and PHEVs in community-car share programs allows for vehicles to enter communities earlier—and therefore providing earlier benefits of zero-emission vehicles to environmental justice communities.

4. **Modifications to the "off-lease" environmental justice credit provides additional benefits for vehicles sold to drivers in financial assistance programs.**

We are supportive of the additional vehicle values that can increase access of off-lease vehicles to participants in financial assistance programs as part of the voluntary environmental justice credits. Staff has added an additional vehicle value of 0.15 (for a potential total of 0.25 vehicle value) for vehicles that are not only sold back to dealers participating in financial assistance programs but are actually sold to a *participant* of this program. This additional vehicle value may incentivize dealerships and manufacturers to increase the number of ZEVs

[2] https://www.reuters.com/world/us/coast-coast-us-heat-wave-threatens-tighten-its-grip-2022-07-20/
[3] https://www.nytimes.com/article/flooding-climate-change.html?campaign_id=9&emc=edit_nn_20220727&instance_id=67725&nl=the-morning&regi_id=74538467&segment_id=99662&te=1&user_id=2044a5faa48d706ab991990859fd7ce9

and PHEVs sold to members of disadvantaged communities.

5. **Modifications to the early compliance credits will provide important flexibility for Section 177 states that may adopt the program after MY 2026.**

We are supportive of the modifications to the early-compliance credit flexibility. In the ISOR, early compliance credits could only be used for model years 2026-2028, and these credits can be earned two years prior to the start of the program. For California and other Section 177 states that are able to adopt ACCII for model year 2026, this flexibility was sufficient, as manufacturers could earn early compliance credits in model years 2024 and 2025 and utilize them for the first three years of the program. However, for Section 177 states that are not able to adopt the regulations until model year 2027 or even later, the early compliance earnings flexibility would be diminished. For example, under the original ISOR proposal, a Section 177 state who adopted ACCII for model year 2027 would be able to earn credits in model years 2025 and 2026 but would only be able to utilize these earned credits for two model years, as opposed to three for early adopter states.

In the 15-day changes, Staff adjusted the early compliance flexibility to allow for the credits to be utilized for three years after the start of the program. This additional flexibility may be important for Section 177 states who adopt the program in later model years, where stringency is higher.

Conclusion

The ACCII rule is a vital regulation to accelerate the transition to zero-emission vehicles, and to improve air quality and health through reductions in NOx and PM emissions, while also reducing climate-harming greenhouse gas pollutants in California. California's air and climate cannot afford a delay in adoption of these regulations. Despite the FCEV proportional credit provisions and environmental justice provisions that do not go far enough, we nevertheless urge the Board to adopt the ACCII regulations—as amended with the 15-day changes—at the August 25 board hearing.