

**STATE OF CALIFORNIA
AIR RESOURCES BOARD**

Proposed Amendments to the Advanced)	
Clean Trucks Regulation and the Zero-)	Comment Deadline: October 22, 2024
Emission Powertrain Certification Test)	Public Hearing Date: October 24, 2024
Procedure)	

**COMMENTS OF THE
TRUCK AND ENGINE MANUFACTURERS ASSOCIATION**

October 22, 2024

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Introduction and Comments

The Truck and Engine Manufacturers Association (EMA) appreciates the opportunity to submit its comments regarding the revised proposal of the California Air Resources Board (CARB) to amend the Advanced Clean Trucks (ACT) Regulation and the Zero-Emission Powertrain (ZEP) Certification Test Procedure. The proposed amendments, as revised, are consistent with the comprehensive agreement that EMA and CARB entered into in July of 2023 regarding the implementation and alignment of a suite of California and federal regulations ultimately aimed at transitioning the medium-duty and heavy-duty (MHD) vehicle sector to zero-emission vehicles (ZEVs). (See CARB website, “[CARB and truck and engine manufacturers announce unprecedented partnership to meet clean air goals](#).”) The revised amendments also reflect the results of ongoing collaborative discussions between CARB Staff and EMA to address certain of the unintended consequences and market impacts that the Board discussed during the original hearing on this matter, which was held on May 23, 2024. Since the revised amendment package, along with the other enforcement discretion actions that CARB Staff are working on, will promote the more orderly implementation of the ACT regulations (as well as the related Omnibus and ACF programs), EMA supports Staff’s proposal.

An important component of the Clean Trucks Partnership agreement between CARB and EMA was CARB’s commitment to amend the ACT regulations to: (i) revise the manner in which ACT credits and deficits are determined, as well as how California sales volumes are calculated; and (ii) extend the ACT deficit make-up period from one year to three years. The pending proposed amendments will implement those agreed-upon revisions.

Beyond that, the proposed amendments also will implement additional flexibilities to help address several of the concerns expressed at the initial hearing in May. Those additional important amendments include the following: (i) adding a new section regarding vehicle labeling, and specifically requiring that vehicles have labels indicating whether a vehicle is or is not intended for sale as a new vehicle in California; and establishing that where a manufacturer includes that information on a label (which can be the GHG-related label), the manufacturer will not be subject to the potential disallowance of credits if a purchaser or owner of a vehicle places the vehicle in service in California in a manner inconsistent with the vehicle label; (ii) adding a requirement that vehicle manufacturers include in their Manufacturers Certificates of Origin (MCOs) whether the vehicle is intended for sale in California to help verify that the purchaser is aware whether the manufacturer intends that the vehicle is for sale in California; and specifying that MCOs can be

used by manufacturers to verify which vehicles were or were not intended for delivery and sale in California; (iii) clarifying that just one of the listed forms of documentation is necessary for manufacturers to retain to track vehicles produced and delivered for sale in California, and to verify that a manufacturer duly disclosed to the purchaser whether the vehicle was intended for sale in California; and (iv) establishing that manufacturers may use NZEV credits to offset up to 50% of deficits generated in a model year. In addition to the foregoing, it is our understanding that CARB Staff are continuing to work on additional measures to help alleviate unintended product availability issues.

All of the above-described regulatory amendments and related flexibilities will enhance the prospects for a more successful implementation of CARB's programs to promote the transition of the trucking industry toward ZEVs.

That said, there are a number of details and implementation complexities that will still need to be resolved. Among those issues is the fact that implementing the new vehicle labeling requirements – starting in the 2025 model year – cannot work for medium-duty vehicles. The production of many 2025 model year medium-duty vehicles began on January 2, 2024, which means that what CARB is proposing would amount to a retroactive labeling requirement for medium-duty vehicles. Consequently, to avoid that result, the effective date for any new labeling requirement for medium-duty vehicles will need to be extended to the 2026 model year or later.

Another issue that will need to be addressed relates to the potential consequences that OEMs may face if their new vehicles do not have the new required California labels. More specifically, the regulatory amendments (at section 1963(g)) state that OEMs that fail to include the new label may be subject to the potential revocation of ZEV credits or the addition of deficits. At the same time, the amendments also provide (at section 1963.4) that OEMs will have multiple options for “acceptable documentation” to use “for tracking vehicles produced and delivered for sale” in California, meaning that so long as OEMs have one or more of those forms of acceptable documentation, they will not be subject to revoked credits or added deficits, even if the new label has not been added to a particular new vehicle.

Proposed subsections (A) and (B) of section 1963.5(a) are not consistent with the foregoing regulatory balance, since those subsections seemingly would allow the Executive Officer to rely solely on subsequent vehicle registration data to determine whether to revoke ZEV credits or add deficits. Accordingly, CARB will need to assess whether to revise or delete those subsections, since they are also inconsistent with the basic premise of section 1963.5(a) – to wit, that credits will be deemed invalid only where they “were obtained based on false information.” Establishing subsequent vehicle registration data as the ultimate arbiter of the validity of ZEV credits and deficits is not consistent with the intent of the amendments at issue or with the underlying discussions that helped to inform the proposed 15-day changes.

In addition to the foregoing and to assist in the finalization of the proposed amendments to the ACT regulations, EMA has a number of technical comments, which are included as Appendix A.

Respectfully Submitted,

TRUCK AND ENGINE
MANUFACTURERS ASSOCIATION

Appendix A

EMA has the following recommendations regarding certain of the specific 15-day changes that CARB staff are proposing:

- Proposed Amendment: 1963(g)(1) - *For all vehicles produced and delivered for sale in California, manufacturers must permanently affix, engrave, or stamp an identification label with the term “for sale in CA”. The label must be affixed to either the engine, ZEV powertrain, next to the powertrain’s emergency disconnect or charge port, or the vehicle’s driver side door jamb.*

EMA Comment: EMA recommends that CARB also allow the new label to simply include a “CA” designation, which would align with the current Omnibus regulations at §86.xxx-35(B)8. Most OEMs are already following that labeling format, and the ACT regulations should allow an option for the continuation of that form of labeling.

- Proposed Amendment: 1963.4(a)(15) - *Physical address, including the street address, city, state, and zip code, of the vehicle’s last known delivery destination.*

EMA Comment: Add: *Physical address, including the street address, city, state, and zip code, of the vehicle’s last known delivery destination, or the dealership address from which the vehicle was delivered.*

The dealership’s address from where the vehicle order was placed and filled is easier to track than the final delivery destination because a third-party delivery service is often used to make the final vehicle delivery.

- Proposed Amendment: 1963.4(d)(1) - *An invoice, receipt, contract, or purchase order from between the manufacturer and ultimate purchaser that shows the delivery destination to an ultimate purchaser in California;*

EMA Comment: OEMs typically sell vehicles through a dealer and not directly to the ultimate purchaser. As such, the required documentation should include the contracting documents between the dealer and the OEM.

- Proposed Amendment: 1963.4(d)(8)

EMA Comment: Add: *Proof of manufacturer’s statement of origin from 1963(g)(1) and proof of label declaring the intended state of sale to be “CA” from 1963(g)(2).* This addition will align with the other proposed amendments in section 1963(g).