January 24, 2012

Clerk of the Board

Air Resources Board

1001 I Street

Sacramento, California 95814

**Re: ADVANCED CLEAN CARS (LEV III) AND ZEV PROGRAMS**

Chrysler appreciates this opportunity to provide comments on California’s proposed Advanced Clean Cars (LEV III) and Zero Emission Vehicle (ZEV) regulations. We look forward to participating at the public hearing on January 26, 2012.

During these past three years, Chrysler has had an open dialogue with the Air Resources Board (ARB) staff to better understand, recognize and collectively address the desired goals of the LEV III and ZEV regulations. Through intense efforts and discussions by all parties, a common understanding of the critical issues and concerns was reached. The end result of these findings is a regulation which we believe, while challenging, contains the elements needed for success. The regulations continue our progress toward a cleaner environment with more efficient and cleaner vehicles and recognize the vast resources that will be required to implement all of these regulations by balancing these resources effectively. We commend the staff for their efforts and appreciate the time they have taken to develop requirements that meet the needs of all affected parties while providing a viable path towards a cleaner environment.

Chrysler supports harmonization of federal and California regulations. To that end, we encourage ARB and EPA to continue to work closely together to establish a National Criteria Emissions Program that includes one certification fuel with harmonized test procedures and certification processes.

Chrysler participated in the preparation of the Alliance of Automobile Manufacturers’ (Alliance’s) comments on the LEV III regulations, and we fully support the Alliance position. In addition we have provided comments and recommendations in the following areas for your consideration (see Attachments 1 and 2).

LEV III Program

* The PZEV backstop provision should be removed and manufacturers should be allowed to produce whatever vehicles are required to comply with the NMOG+NOx fleet average.
* The 50ºF exhaust emission standards should be deferred until such time when ARB believes there is sufficient infrastructure in place to fuel these vehicles or alternatively, consider the positive CO2 benefit from these vehicles when operating on E85 in lieu of the 50°F emission requirement.
* A Medium-duty vehicle (MDV) Alternative Compliance Plan should be allowed for those manufacturers that have a small number of MDV test groups.
* National GHG Program – ARB has recognized the importance and benefit of a single national program for GHG. We recommend that ARB allow manufacturers to comply with the federal program in lieu of complying with the ARB program when the federal final rule is published. Additionally, we strongly urge ARB to conduct an extensive Mid-Term Evaluation to review the appropriateness of the standards and market acceptance.

ZEV Program

* While Chrysler supports the principles of the ZEV Program, Chrysler takes exception with the provision that would give a select group of manufacturers the opportunity to avoid up to half of their ZEV obligation as a result of over compliance with the greenhouse gas provisions of the federal or California program. Accordingly, this provision should be removed.

Again, we appreciate the efforts of the staff and encourage you to address our concerns on these important technology and market-challenging regulations.

If you have any questions regarding our position, please contact Frank Krich of my staff on 248-576-5497.

Sincerely,



Reginald R. Modlin

Director

Regulatory Affairs

c: Steve Albu – ARB

Analisa Bevan – ARB

Mike Carter – ARB

Paul Hughes – ARB

Anna Wong – ARB

Michael R. Olechiw – EPA

**Attachment 1**

**LEV III Program**

**PZEV Backstop**

ARB proposes a PZEV backstop to help ensure continued production of SULEV30s after PZEVs migrate from the ZEV program to the LEV III program beginning in the 2018 MY. ARB states that without a backstop, beginning in the 2018 MY, manufacturers would not need to produce SULEV30s until the 2023 MY in order to meet the NMOG+NOx fleet average requirement. Accordingly, ARB proposes that manufacturers produce at least the same volume of SULEV30s in the 2018 and subsequent MYs based on the average volume of PZEVs that they produced for the 2015 through 2017 MYs.

ARB’s PZEV backstop proposal is using manufacturer’s compliance margin for the sole purpose of maintaining at least the same number of SULEV30s for the average number of PZEVs that a manufacturer produced in the 2015 through 2017 MYs. As such, all manufacturers will be over complying with the NMOG+NOx fleet average. ARB should focus on the NMOG+NOx fleet average rather than forcing manufacturers to artificially maintain a certain volume of SULEV30s. Manufacturers should have the flexibility to produce whatever vehicles are required to comply with the NMOG+NOx fleet average regardless of the individual standards to which they are certified.

We believe that the intent of this requirement is to ensure that manufacturers do not stop offering for sale SULEV versions of the PZEVs they were offering for sale in the 2015 through 2017 MYs solely because PZEVs are no longer an option in the ZEV program beginning in the 2018 MY. Since the sales of these SULEV models will naturally decrease over time as the models age, it will be difficult for manufacturers to maintain the same percentage of their vehicles as SULEVs without developing new/additional SULEV models. Accordingly, Chrysler recommends that the PZEV backsliding provision be removed and that manufacturers be allowed to produce whatever vehicles are required to comply with the NMOG+NOx fleet average.

**50ºF Exhaust Emission Standards**

Chrysler appreciates the flexibility that the ARB staff has provided with the 50ºF exhaust emission standards for flexible-fuel, bi-fuel, and dual-fuel vehicles when operating on gaseous or alcohol fuel. While directionally correct, Chrysler does not believe that this flexibility is sufficient to ensure that E85 flexible-fuel vehicles (E85 FFVs) certified to ULEV70 and lower FTP exhaust emission standards can achieve the 50ºF exhaust emission standards without equipping these vehicles with additional, expensive hardware solely for the purpose of complying with the 50ºF exhaust emission standards. Manufacturers are being required to comply with the 50ºF exhaust emission standards on E85 FFVs even though the infrastructure is still developing. Accordingly, Chrysler recommends that this requirement be deferred until such time when ARB believes there is sufficient infrastructure in place to fuel these vehicles or alternatively, consider the positive CO2 benefit from these vehicles when operating on E85 in lieu of the 50°F emission requirement.

**Medium-Duty Alternative Compliance Plan**

ARB’s proposed medium-duty vehicle (MDV) phase-in to FTP SULEV17/SULEV23 standards does not accommodate those manufacturers that have a small number of MDV test groups.  Chrysler recommends an option that allows an Alternative Compliance Plan (ACP) with Executive Officer approval. Without an ACP option these manufacturers will have to fully comply in the early years of the proposed phase-in. Accordingly, Chrysler recommends that the following provision be included:

Manufacturers that have four or less MDV test groups may submit an ACP for Executive Officer approval.

**National GHG Program**

ARB has recognized the importance and benefit of a single national program for GHG. ARB’s current GHG regulations (2012-2016 model years (MYs)) allow manufacturers to comply with the federal program in lieu of complying with the ARB program, and ARB made the same commitment for the 2017-2025 MY regulations in a letter to EPA and NHTSA on July 28, 2011. We believe that ARB inadvertently omitted the provision to accept the federal program for the 2017-2025 MY in lieu of the ARB program. We recommend that ARB incorporate this provision when the federal final rule is published. Additionally, we strongly urge ARB to conduct an extensive Mid-Term Evaluation to review the appropriateness of the standards and market acceptance.

**Attachment 2**

**Zero Emission Vehicle (ZEV) Program**

Chrysler supports the guiding principles of the ZEV Program[[1]](#footnote-1):

* The 2050 greenhouse gas emission reduction goal requires a critical mass of vehicles by 2025;
* The 2025 production volume must be high enough to have reached volume-based cost reductions for ZEV technologies;
* The total ZEV Program driven market share be consistent with market demand;
* And vehicle technologies are common in the market – i.e., multiple ZEV platforms.

Based on these principles, Chrysler supports the ZEV Program as proposed by staff, with one major exception: the provision allowing over-compliance with California and / or Federal greenhouse gas regulations to generate ZEV Program credits. This provision is in direct conflict with several of the guiding principles as shown below.

Chrysler also comments below on several other technical aspects of the ZEV Program implementation of these guiding principles.

**Greenhouse Gas Over-Compliance ZEV Credits**

In its July 28, 2011 letter supporting the Federal light-duty greenhouse gas program for model years 2017-2025[[2]](#footnote-2), California committed “to propose that its revised ZEV program for the 2018-2021 MYs include a provision providing that over-compliance with the federal GHG standards in the prior MY may be used to reduce in part a manufacturer’s ZEV obligation in the next MY.” According to staff “ARB’s best guess at this point of time is manufacturers accounting for sales between 15 percent and 50 percent of total sales may be able to use the over compliance provision.”[[3]](#footnote-3)

Chrysler strongly believes that the greenhouse gas over-compliance ZEV credit provision (“GHG Over-Compliance Provision) is inconsistent with the Board’s directive to move zero emission drive technology to commercialization, undermines the incremental air quality benefit that is lost with the avoided zero emission drive vehicles, creates an un-level playing field by providing a select group of manufacturers a significantly lower cost of compliance, may face considerable legal obstacles, and slows down the much needed market acceptance of electric drive vehicles.

In addition to these policy reasons, ARB should also discard its GHG Over-Compliance Provision because that provision would be subject to legal challenges due to preemption and SIP approval issues, as set forth below.

At its March 2008 hearing, the Board directed staff to strengthen the regulation above what is currently required and focus primarily on battery electric vehicle (BEV), hydrogen fuel cell vehicle (FCV), and plug-in hybrid electric vehicle (PHEV) technologies. In 2009, staff undertook an analysis of pathways to meet California’s long term 2050 GHG reduction goals and the analysis showed ZEVs needed to reach nearly 100 percent of new vehicle sales by 2040, with commercial markets for ZEVs launching in the 2015 to 2020 timeframe. Staff presented its findings at the December 2009 Board hearing and the Board adopted Resolution 09-66, reaffirming its commitment to meeting California’s long term air quality and climate change reduction goals through commercialization of ZEV technologies. The GHG Over-Compliance Provision, however, is contrary to these commitments.

If adopted, and based on CARB staff’s “best guess” that manufacturers accounting for sales up to 50 percent of total California sales will take advantage of this provision, Chrysler projects that it will result in over 30,000 fewer plug-in electric vehicles each year in California, effectively increasing ROG + NOx emissions by 7.4 tons and over 60,000 fewer plug-in electric vehicles per year in the Section 177 states, increasing ROG + NOx emissions by about 15 tons. Accordingly, although the net GHG effect may be favorable (were the GHG benefits of retiring Federal or California GHG credits greater than the lost GHG benefits of the corresponding reduction in ZEV obligation), the net ROG + NOx emissions would rise. Overall, if adopted, this provision will allow a select group of individual manufacturers to avoid producing tens of thousands of plug-in electric vehicles at a critical point in the ZEV program where product cost is at its highest and market demand lowest.

Given the structure of the program and these apparent emissions impacts, there may be legal obstacles to California’s adoption of the GHG Over-Compliance Provision proposal. First, the proposed GHG Over-Compliance Provision may be preempted under Section 209 of the Clean Air Act because (1) the proposal could require California to obtain a new waiver under Section 209(b) of the Clean Air Act for its greenhouse gas standards -- including the ZEV program and; (2) those standards could be ineligible for a waiver because they would not be consistent with federal greenhouse gas standards under Section 209(b)(1)(C). Furthermore, to the extent that California has relied on ROG + NOx reductions from the ZEV program in any Air Quality Management District (AQMD) state implementation plan for ozone, these revisions would relax the ZEV program and would not be allowed absent EPA approval of a revised SIP accounting for the resulting ROG + NOx increase.

With respect to preemption, Section 209(a) preempts California from adopting or enforcing standards related to emissions from new motor vehicles absent a waiver from EPA under Section 209(b). EPA may grant a waiver under Section 209(b) solely where California determines (and the determination is not arbitrary and capricious) that its standards will be, in the aggregate, at least as protective of public health and welfare as federal standards, and the standards are necessary to meet compelling and extraordinary conditions. Because California’s proposal would relax the ZEV program and thereby may increase ROG + NOx emissions, compared to the ZEV program for which EPA granted a waiver, EPA may be required to reevaluate whether the ZEV program -- and it lower ROG + NOx benefits as revised -- is still required to meet compelling and extraordinary conditions, and that the program would not fall within a “within the scope” waiver exception.

In addition, the California greenhouse gas standards (including the ZEV requirements), and accompanying enforcement procedures must be consistent with Section 202(a) (EPA’s own greenhouse gas standards). Section 202(a)(3)(A) of the Clean Air Act requires EPA to establish emission standards that “reflect the greatest degree of emission reduction achievable through the application of technology which [EPA] determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.” California’s proposal allows over-compliance with the national GHG standards to reduce ZEV obligations. This option undermines EPA’s GHG standards. This is because the credits retired from the national program to reduce ZEV obligations would, in fact, be *retired,* and accordingly not be applied to offsetting under-compliance in the federal program. As a result, we would expect overall GHG emissions necessarily to be lower than that which would occur absent the California ZEV provision. Removing over-compliance credits from the federal GHG program makes those credits unavailable in the federal GHG “emissions credit market” for automaker’s use in complying with the federal standards. This makes compliance more difficult because there are fewer credits to use; as such this effectively lowers the passenger car and light duty truck curves. Because EPA must establish federal standards reflecting the greatest degree of emission reduction achievable, this California ZEV option -- that makes federal compliance more difficult -- interferes with and is inconsistent with the federal standards. Accordingly, the California ZEV option would be ineligible for a Clean Air Act section 209 waiver, and preempted entirely.

In addition to these potential preemption issues, to the extent that California has anticipated that the ZEV program will achieve ROG + NOx reductions, it is possible that California AQMDs responsible for achieving compliance with the ozone NAAQS (and possibly other criteria pollutants) have relied on the ZEV program in their State Implementation Plans (SIPs) for attainment. The California proposal to allow federal GHG over-compliance to satisfy ZEV obligations would reduce the ROG + NOx benefit (as discussed above). If EPA has approved AQMD SIPs based on assumed ROG + NOx reductions that would not occur due to the GHG over-compliance option, that change cannot be made without approval of a revised SIP that still shows attainment.

If adopted, the Greenhouse Gas Over-Compliance provision will also put manufacturers who still need to comply with the full ZEV requirement at a competitive disadvantage, causing serious financial harm, compared to those manufacturers able to take advantage of the provision with little or no additional investment.

Therefore, Chrysler strongly urges the Board to not adopt the greenhouse gas over-compliance ZEV credit provision.

**Review Process**

Key among the guiding principles will be market share of ZEV Program vehicles consistent with market demand for those vehicles. CARB staff has proposed an aggressive program which will only be achievable with manufacturer, government, and most importantly, customer support. Given the long-term time frame of this rulemaking (up to twelve years in the future), staff is supporting a review of the ZEV Program in conjunction with the mid-term review of the federal light-duty vehicle greenhouse gas program. However, Chrysler supports a more frequent review of the ZEV Program.

Manufacturers have announced plans for many electric vehicles which will launch over the next several years. This first major move towards plug-in vehicle commercialization will yield many lessons in both vehicle technology and market acceptance of these vehicles. Chrysler recommends that ARB undertake a biennial review process which examines critical technology, cost, and market considerations and to recommend changes to the ZEV Program to the Board as needed based on these reviews.

**Large Volume Manufacturer / Section 177 State Agreement**

The large volume manufacturers have worked with the Section 177 states to negotiate an agreement which satisfies the states’ desire for earlier BEV introductions in their states and which provides manufacturers an easier transition to full volume requirements in those states and additional compliance flexibility through pooling of Section 177 state compliance requirements. Although it is unclear whether a final agreement will be reached in time for the Board hearings, it is clear that such an agreement is supported by staff, the states, and many of the manufacturers. Chrysler believes that among others, the following principles must continue to be preserved if such an agreement is reached and staff develops appropriate regulatory text to implement the agreement.

Regulatory text implementing such an agreement must respect the identicality requirements of the Clean Air Act. Chrysler’s legal staff will be reviewing changes proposed to implement such an agreement and we reserve our legal rights to challenge any provision which infringes upon these requirements. Chrysler notes that it does not, by omission of any potential legal or policy objection to any aspect of this ARB proposal, waive its right to raise any legal or policy objection to any future ARB proposed or final regulatory action, regardless of whether such future objections are the same or similar to those that Chrysler might be able to raise with respect to this proposal.

Any agreement must be an overlay of the ZEV Program as proposed by ARB staff in the ISOR. Aside from the particular additional and reduced requirements in such an agreement, the principles upon which those requirements were developed, and additional flexibilities offered, ZEV provisions such as credit banking, vehicle credit values, etc. must continue to form the underlying structure of Section 177 state compliance.

Any agreement must provide equal opportunity (and risk) to all manufacturers, regardless of compliance strategy. Of particular concern is ensuring that any ZEVs in excess of the early introduction credit requirement continue to receive the flexibility to utilize the travel provision through the 2017 model year including the use of traveled ZEV credits to cover compliance requirements in the TZEV, AT-PZEV, and PZEV categories.

The agreement must be optional. Manufacturers must be able to make use of the provisions as proposed by staff in the ISOR and approved by the Board.

If the agreement introduces additional compliance flexibilities, such as pooling of compliance provisions, these flexibilities should be extended to all manufacturers after the time period of the optional agreement. For example, a pooling provision should be extended to all manufacturers in the 2021 model year after all manufacturers are subject to the same requirements again.

**Vehicle Credit Adjustments for Additional Non-Battery-Related Attributes**

Chrysler urges staff to carefully examine plug-in vehicle market trends over the next several years. In the current regulation and ISOR, ZEV credit is provided based on plug-in vehicle electric range. Electric range-based credits encourage manufacturers to build smaller vehicles (thereby minimizing battery costs needed to achieve the desired range). Additional attribute-based metrics (e.g., vehicle footprint or passenger volume) could encourage manufacturers to build a wider variety of vehicle types and sizes, increasing ZEV marketability.

**2009 Through 2017 Model Year Flexibility Increases**

With respect to the major amendments to the 2009 through 2017 ZEV Program regulation, Chrysler supports many of the additional compliance flexibilities included by staff in the ISOR, such as extension of the “travel provision”, removal of credit carry-forward limitations for ZEVs, and the inclusion of a new “BEVx” vehicle category capable of generating ZEV credits.

Extending the travel provision for BEVs through 2017MY is a logical flexibility for manufacturers. This extension reflects the higher market uncertainty and infrastructure development in ZEV Program states outside of California. This extension provides additional time for infrastructure and market demand to develop in these states. It also respects product plans developed by manufacturers based on the information shared by ARB staff in multiple public workshops. At these workshops, no opposition to this flexibility extension was voiced.

Removing limitations to the future use of banked credits produced by BEVs and other ZEVs provides multiple benefits to the ZEV Program. Removing the limitations encourages manufacturers to potentially build larger volumes earlier. It also sends a signal to manufacturers that early ZEV production is as valuable, if not more valuable, to the goals of the ZEV Program and that these efforts will not be wasted by constraints on later use of the generated credits.

Chrysler also supports the creation of an additional category of extended range electric vehicles. Creating new categories which reflect the potential benefits of innovative technology application encourages manufacturers to produce multiple ZEV technology platforms to satisfy customer desires. This category can serve to broaden market acceptance of plug-in technologies.

**ZEV Credit Carry-Back Provisions**

In the ISOR, ARB staff proposes to further constrain credit carry-back provisions for covering an earlier model year ZEV Program deficit. Under the current regulation, credits generated by ZEVs can be carried back up to two years. Staff proposes to change this to one year maximum carry-back.

Given the aggressive nature of the ZEV Program, especially after 2017 MY, manufacturers typically would not choose to generate ZEV program deficits unless forced to by unforeseen circumstances (e.g., bankruptcy or a market failure for a ZEV product). The credit carry-back provisions respect that manufacturers do not have perfect foresight, and may need to make future product adjustments to correct for under-compliance in an earlier year. ARB has recognized this principle in multiple regulations by offering credit carry-backs of up to five years.[[4]](#footnote-4) Similarly, Federal greenhouse gas and fuel economy regulations offer up to three year carry-back of credits.

In the future, manufacturers are likely to need more than one model year to make up a ZEV deficit. The ZEV requirements significantly increase beginning in the 2018 MY and a full-line manufacturer confronted with this significant increase in volume may need more time to react in face of an uncertain market. Therefore, Chrysler recommends that ZEV Program credit carry-back remain at two years or be extended to three years.

**Calculating the Number of Vehicles to Which the Percentage ZEV Requirement is Applied**

The ISOR proposes three significant changes to the procedures that manufacturers use to calculate the number of vehicles to which the percentage ZEV requirement is applied, starting with the 2018 model year: (1) The prior-year average method will average production from the 2nd, 3rd, and 4th prior model year; (2) manufacturers will be constrained from using the same-year method unless a manufacturer’s sales drop 40% as compared to the prior model year; and (3) manufacturers will be constrained from using the same-year method for more than two years in the 2018-2025 time period.

In the ISOR, staff proposes in the 2018 and later model year ZEV regulation, changes to the prior-year average method for calculating ZEV production requirements. In the past, the prior-year average method used a manufacturer’s average production from the prior 4th, 5th, and 6th model years. Starting in 2018 model year, the prior-year average method will utilize the average of the prior 2nd, 3rd, and 4th model years.

This change provides two less years of lead-time to manufacturers for planning purposes. In fact, this modification will result in manufacturers not knowing their production requirements with certainty until after the beginning of the model year in which they must produce the ZEVs. The following timeline illustrates this concern.

Example: Compliance Requirement for 2018MY

Prior-year average method uses the 2016, 2015, and 2014 model years

January 2, 2017: The 2018 MY begins

March 31, 2017: The “final” production volumes for 2016MY are determined; 2018MY ZEV production requirements are finalized.

This shorter, or complete lack of, lead-time can significantly increase production costs through late changes to production volumes and plant capacity planning. Chrysler recommends that additional lead-time be provided under the prior-year average method.

Of greater concern is the 2018 model year change that constrains the use of the same-year method for determining ZEV production requirements. Under current regulation and through the 2017 model year, manufacturers can use either the prior-year average or same-year methods at their discretion. This discretion buffers manufacturers from excessive ZEV production requirements in which significant sales drops occur.[[5]](#footnote-5) Beginning in the 2018 model year, the ISOR limits use of the same-year method to manufacturers which experience a 40% decline in sales vs. the prior model year.

As shown in the table below, the 40% threshold proposed by staff is unrealistically too high. Historical Corporate Average Fuel Economy data[[6]](#footnote-6) shows that even in one of the most severe industry downturns (2009 MY), only two manufacturers (Chrysler and Ford) experienced sales decline of 40% or greater.

| **Manufacturer** | **2009MY vs. 2008MY**  **(% Change)** | **2010 MY vs. 2009 MY**  **(% Change)** | **2010 MY vs. 2008 MY**  **(% Change)** |
| --- | --- | --- | --- |
| All Manufacturers | -32.4% | 18.9% | -19.6% |
| BMW | -37.5% | -22.7% | -51.7% |
| Chrysler | -50.8% | 42.2% | -30.0% |
| Daimler | -38.3% | 27.6% | -21.3% |
| Ford | -52.2% | 73.2% | -17.2% |
| General Motors | -39.6% | -8.3% | -44.6% |
| Honda | -24.1% | 7.5% | -18.3% |
| Nissan | -17.9% | 1.6% | -16.5% |
| Toyota | -20.6% | 25.6% | -0.3% |

Also problematic is the constraint that qualification must be based on comparison to the prior model year. Under these rules, a manufacturer such as General Motors would not have qualified in the 2009 model year (sales decline under 40% in 2009 vs. 2008), nor would it qualify in the 2010 model year even though General Motors’ overall sales decline from 2008 to 2010 was well over 40%.

Chrysler recommends that the threshold to qualify for the same-year method either be removed (as in current regulation) or, if needed to limit use of this flexibility, that the threshold be set at a 15% sales decline as compared to the production determined under the prior-year average method. Arguably, the 2009 model year experienced one of the most severe market declines of the past 30 years. The data above suggests that a threshold of 15% would have allowed all large volume manufacturers to qualify for this needed flexibility in the 2009 model year. Comparing same-year results to prior-year average results corrects the concern noted in which a manufacturer experiences a multi-year decline exceeding the threshold, but would not otherwise qualify if the same-year production was only compared to the single prior year.

Chrysler concedes that some of the production requirement increases caused by the prior-year average method in a declining market are offset in the future when the prior-year average method utilizes the years with significantly lower sales. However, we make note that staff is also proposing to limit credit carry-back to a single year, making those future requirement reductions useless for generating surplus credits to cover the earlier deficit.

Chrysler is also concerned about staff’s proposed limitation to the use of “current year” method to a maximum of two years in the 2018-2025 model year timeframe. Manufacturers have no control over the length, frequency, or timing of economic downturns which impact our ability to sell vehicles. Artificially limiting the use of this flexibility to only two years fails to consider that both ZEV and conventional vehicle sales are limited by market conditions, which cannot be materially significantly altered by manufacturers. Chrysler recommends that this restriction be removed.

Finally, the requirement to apply to the Executive Officer before using the same-year method interjects a subjective decision into what would otherwise be an objective, data driven, process. Chrysler recommends that this restriction be removed.

**ZEV Credits for 2009-2017 Model Years**

In the ISOR, staff proposes to constrain generation of full credit for placed ZEVs to those ZEVs delivered for sale and placed in service in the same state. Under current regulation, there is no constraint that a ZEV be placed in service in the same state that it is delivered for sale in (assuming that it is placed in service in a state administering the ZEV Program). After delivering a vehicle for sale, manufacturers have no control over the business decisions of vehicle dealers.[[7]](#footnote-7) These vehicles may be traded to dealers in other states, or even sold to end-user customers that have crossed a state border to obtain a vehicle which will in all likelihood have limited availability. Constraining full ZEV credit to only vehicles which are placed in service in the same state in which they are delivered for sale introduces additional uncertainty for manufacturers with little to no positive benefit to ZEV Program goals. Chrysler recommends that this proposed change not be finalized.

Under current regulation and unchanged in the ISOR, manufacturers cannot generate full credit for a ZEV unless it is placed in service. This requirement requires manufacturers and state regulators to track each vehicle registration and to compare motor vehicle records from multiple states. Even at the three percent minimum ZEV requirement level, this is a significant number of vehicles to track. Chrysler recommends simplifying the requirement to simply delivering the vehicle for sale.

The ISOR also introduces a change limiting full credit to only vehicles which are placed in service before December 31five calendar years after the model year. Although Chrysler expects few ZEVs (if any) will take over five years to sell, this seems to be an unnecessary additional constraint. Such a constraint implies that a ZEV which will generate the same number of zero emission miles regardless to when it is sold, is less valuable to state emission goals after an arbitrary period of time. Chrysler recommends that this proposed change not be finalized.

**Use of Type 1.5x and Type IIx (2014-2017) or BEVx (2018+) Credits to Satisfy A ZEV Credit Deficit**

In clarifying the provisions for satisfying a ZEV credit deficit, staff has excluded range extended battery electric vehicles from satisfying a prior year deficit. Given that these vehicles can be used to partially satisfy minimum ZEV requirements, Chrysler recommends that credits generated by this vehicle type be allowed to satisfy a prior year ZEV credit deficit.

**Use of TZEV, AT-PZEV and PZEV Credits to Satisfy a ZEV Credit Deficit**

In the ISOR, TZEV credits cannot be used to satisfy a ZEV credit deficit. Air Resources Board staff already tracks requirements under each allowance category in addition to tracking minimum ZEV requirements. Chrysler recommends that a credit generated under a given allowance be permitted to satisfy a debit generated under that allowance level or lower. Allowing these categories of credits to satisfy a prior year credit deficit generated in the same or lower compliance category would not degrade the air quality benefits that would have been derived by specific vehicle types and would require minimal or no additional tracking effort.

1. Staff presentation at ZEV Regulation Workshop (November 16, 2010). Available at <http://www.arb.ca.gov/msprog/zevprog/2011zevreg/11_16_10pres.pdf> (last accessed January 20, 2012). [↑](#footnote-ref-1)
2. Letter from Mary Nichols, California Air Resources Board Chairman, sent to Ray LaHood, Secretary of the U.S. Department of Transportation and Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (July 28, 2011). Available at <http://www.epa.gov/otaq/climate/letters/carb-commitment-ltr.pdf> (last accessed January 20, 2012). [↑](#footnote-ref-2)
3. ZEV Program ISOR at 51 [↑](#footnote-ref-3)
4. See, for example, 13 CCR 1961.1 (b)(3)(A) [↑](#footnote-ref-4)
5. Because the ZEV production requirement is otherwise based on the average of several prior model years’ total production, when manufacturers experience significant sales drops, the actual percentage ZEV requirement rises exponentially. For example, if the prior-year average is 100 vehicles and the ZEV regulatory requirement is 10%, and a market decline of 10% occurs, the actual production requirement is 11.1% (100 x 10% / 90). Similarly a 30% market decline would yield a ZEV production requirement of 14.3%. [↑](#footnote-ref-5)
6. National Highway Traffic Safety Administration “Summary of Fuel Economy Performance” (October 28, 2011). Available at <http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/October_2011_Public.pdf> (last accessed January 17, 2012). Conclusions are based on this publicly available 50-state data, but are expected to also be supportable with state-specific data available from private sources or in confidential reports submitted to ARB. [↑](#footnote-ref-6)
7. Vehicle dealers are independently owned and operated. Vehicles are purchased by dealers from OEMs (delivered for sale), after which the dealer can choose to sell the vehicle to an end-use, maintain the vehicle on the show room floor for advertising purposes, sell the vehicle to another dealer, or trade the vehicle to another dealer. [↑](#footnote-ref-7)