TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER MINOR MODIFICATIONS TO THE ZERO EMISSION VEHICLE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider minor proposed amendments to the California Zero Emission Vehicle (ZEV) regulation.

DATE: **October 24, 2013**

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

RECEIVED FOR FILING PUBLICATION DATE
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Office of Administrative Law

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., **October 24, 2013**, and may continue at 8:30 a.m., on **October 25, 2013**. This item may not be considered until October 25, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before October 24, 2013, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE 11346.5(a)(3)

Sections Affected: Proposed amendments to California Code of Regulations, title 13, sections 1962.1 and 1962.2, and proposed amendments to "California Exhaust Emission Standards and Test Procedures for 2009 through 2017 Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck, and Medium-Duty Vehicle Classes", as adopted December 17, 2008, and as last amended December 6, 2012, which is incorporated by reference in section 1962.1, title 13, California Code of Regulations, and "California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck, and Medium-Duty Vehicle Classes," as adopted March 22, 2012, and as last amended December 6, 2012, which is hereby incorporated by reference in section 1962.2, title 13, California Code of Regulations.

Background and Effect of the Proposed Rulemaking:

In January 2012, the ARB approved the Advanced Clean Cars program, which included increased ZEV requirements through 2025 model year, and the next generation of light duty greenhouse gas (GHG) and criteria pollutant emission standards (LEV III). This historic program combined the control of smog-causing pollutants and GHG emissions

into a single coordinated package of requirements for model years 2017 through 2025 and assured the development of environmentally superior cars that will continue to deliver the performance, utility, and safety vehicle owners have come to expect. The Board approved subsequent minor amendments to the Advanced Clean Car program in November 2012, and a final EPA waiver was granted in January 2013.

Due to a compressed schedule, staff was not able to make additional minor modifications before the regulation was finalized in December 2012. Staff is returning to the Board with minor amendments to effectuate an agreement between the Section 177 states[1] and regulated manufacturers, add provisions to ensure ZEVs are delivered for sale in California every year, modify the fast refueling definition, and add conforming and clarifying language where needed.

Objectives and Benefits of the Proposed Regulation:

Staff's proposal addresses four minor problems, while still maintaining the Board's commitment to a strengthened ZEV regulation:

1) Adjusts the optional Section 177 state compliance path as committed to by the Section 177 states and the manufacturers.

In 2012, the Board approved a new optional provision which allowed manufacturers to produce extra ZEVs in the section 177 states prior to model year 2018. In exchange for these extra ZEVs, manufacturers gain the ability to pool credits across state lines within and between two Regional pools. Additionally, manufacturers would also be allowed to comply with a reduced transitional zero emission vehicles (TZEV) and ZEV portion of their requirement in certain model years. This provision was put in place to smooth the transition into 2018 and subsequent model year requirements, and ensure ZEVs were placed in the section 177 states prior to 2018 model year. Manufacturers and the section 177 states helped draft language, which was finalized in 2012.

Since adoption, manufacturers and Section 177 states have continued discussions surrounding this provision, and have requested a number of changes to ensure its success. Staff is proposing to exclude the use of transportation system credits for meeting the additional ZEV percentages in each of the Section 177 states in model years 2016 and 2017. This modification will help ensure those additional percentages are met with credits from actual vehicles. Staff is also proposing to allow manufacturers on the optional compliance path to trade and transfer 2012 through 2017 model year ZEV and TZEV credits within and between each Regional pool[2]. This means that, for example, a manufacturer could use 2012 through 2015 model year credits to meet a 2015 model year obligation.

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[1]Section 177 of the federal Clean Air Act allows other states to adopt California motor vehicle emission standards including the ZEV regulation.

[2] Two Regional pools were created for the purpose of this provision: the West Region pool and East Region Pool. States west of the Mississippi River, excluding California, make up the West Region pool, and states east of the Mississippi River make up the East Region pool.

Staff is also proposing to remove the requirement to provide vehicle identification numbers (VIN) for TZEVs prior to 2018 model year and substitute a requirement that manufacturers provide VINs for ZEVs and TZEVs upon request. Lastly, staff is proposing to simplify the provision specifying what happens when a manufacturer elects the optional Section 177 state compliance path, but fails to comply with any or all of the requirements.

2) Maintains a minimum ZEV credit requirement, regardless of model year and use of non-ZEV credits earned in the regulation.

Various caps on use of credits from special flexibility provisions have been put in place over iterations of the regulation to ensure manufacturers are still required to produce ZEVs. However, staff found that there was no clear direction for how to apply these caps in combination to meet ZEV requirements. For example, a large volume manufacturer is subject to the following caps when meeting its 2018 model year minimum ZEV requirement:

- Extended Range Battery Electric Vehicle (BEVx) Credits: No more than 50% of minimum ZEV requirement[3]
- GHG-ZEV Over-compliance Credits: No more than 50% of minimum ZEV requirement[4]
- Transportation System Credits from ZEVs: No more than 10% of minimum ZEV requirement

Staff is now proposing an overall 50% cap when a manufacturer uses credits (other than pure ZEV credits) in combination to meet its minimum ZEV requirement in any given model year.

3) Modify fast refueling definition to exclude range accumulation through battery exchange.

Adopted in 2001, ZEVs with the ability to refuel to 95% of full capacity within 15 minutes are allowed to earn more credit, under the Type IV and Type V ZEV definitions. Below is a summary of each ZEV type definition and credit level.

	Definition	**2012-2014 Credit Level**	**2015-2017 Credit Level**
Type IV ZEV	200+ mile range, and fast refueling capable	5	5
Type V ZEV	300+ mile range, and fast refueling capable	7	9

[3] CCR, Title 13, Section 1962.2(g)(6)(B)
[4] CCR, Title 13, Section 1962.2(g)(6)(C)3.

Some BEVs have been qualifying under the fast refueling definition by means of battery exchange. However, it has not been publically demonstrated that battery exchanges have occurred on the vehicles earning credits. Though staff does recognize the potential for a battery exchange to help market the vehicle, other vehicles earning Type IV and V ZEV credit depend on fast refueling for vehicle operation and success. Staff is proposing to remove battery exchange from qualifying under the fast refueling definition, starting in 2015 model year.

Resulting from the amendments proposed, manufacturers will benefit from greater flexibility in complying with the regulations, while the Board will benefit from a maintained ZEV credit requirement each year. Staff is also proposing minor clarifying, grammatical, and numbering corrections.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR COMPARABLE FEDERAL REGULATIONS

This regulation is not mandated by federal law or regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal, and all information upon which the proposed regulation is based. The report is entitled: "2013 Minor Modifications to the Zero Emission Vehicle Regulation".

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on September 4, 2013.

Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Anna Wong, Air Pollution Specialist, (916) 323-2410 or Elise Keddie, ZEV Implementation Section Manager, (916) 323-8974.

Further, the agency representative and designated back-up contact persons, to whom non-substantive inquiries concerning the proposed administrative action may be directed are Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at http://www.arb.ca.gov/regact/2013/zev2013/zev2013.htm

DISCLOSURES REGARDING THE PROPOSED REGULATION

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Fiscal Impact / Local Mandate

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability To Compete

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any

cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statement of the Results of the Economic Impact Assessment Prepared Pursuant to Government Code Sec. 11346.3(b)

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Benefits of the Proposed Regulation:

The objective of the proposed amendments is to make minor amendments to effectuate an agreement between the Section 177 states and regulated manufacturers, add provisions to ensure ZEVs are delivered for sale in California every year, modify the fast refueling definition, and add conforming and clarifying language where needed. Further, compliance with ZEV regulation will create a positive impact on emission benefits, as a result, benefits the air quality of the state's environment.

A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion on page 2.

EFFECT ON SMALL BUSINESS

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because small businesses are not regulated parties under these regulations.

HOUSING COSTS

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

BUSINESS REPORT

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

ALTERNATIVES

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

ENVIRONMENTAL ANALYSIS

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Chapter IV of the ISOR.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on September 9, 2013. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after September 9, 2013 and received **no later than 12:00 noon on October 23, 2013**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

You can sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: http://www.arb.ca.gov/board/online-signup.htm.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to

consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105. This action is proposed to implement, interpret, and make specific sections 38562, 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43018.5, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205, 43205.5 and 43206.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at 916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

Richard W. Corey
Executive Officer

Date: August 27, 2013

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.