

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text
and Availability of Additional Documents and Information**

ELECTRIC VEHICLE SUPPLY EQUIPMENT STANDARDS

Public Hearing Date: June 27, 2019
Public Availability Date: September 4, 2019
Deadline for Public Comment: September 19, 2019

At its June 27, 2019, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed sections 2360, 2360.1, 2360.2, 2360.3, 2630.4 and 2360.5, Title 13, Chapter 8.3, California Code of Regulations. These sections comprise the Electric Vehicle Supply Equipment (EVSE) Standards Regulation.

At the hearing, staff presented suggested modifications to the regulatory language developed in response to comments received during the 45-day comment period following the release of the Staff Report: Initial Statement of Reasons (Staff Report) to the public on May 7, 2019.

The Board directed the Executive Officer to make the modified regulatory language, and any additional conforming modifications, available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and take final action to adopt the regulation after addressing all appropriate modifications.

The resolution and all other regulatory documents for this rulemaking are available online at the following CARB website:

<https://ww2.arb.ca.gov/rulemaking/2019/evse2019>

The text of the modified regulatory language is shown in Attachment A. New deletions and additions to the proposed language that are made public with this notice are shown in ~~strikethrough~~ to indicate deletions and underline to indicate additions.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment A.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. Modifications to Section 2360 Applicability

§ 2360(b) Staff is proposing to add a definition for “clearly marked,” to describe appropriate signage designating whether workplace EVSE is available to the public or not. Commenters requested that staff elaborate on what would be required to “clearly mark” an EVSE for public or private use. This definition explains that any visible marker can be used to indicate whether an EVSE is available for private or public use.

§ 2360(b) Because confusion was expressed by commenters regarding what was meant by “common interest development”, staff is proposing to modify the definition for “common interest development” to better indicate housing developments considered to be private locations. The modified definition parallels that used by the Davis-Stirling Common Interest Development Act, now codified at California Civil Code § 4100.

§ 2360(b) Staff is proposing to modify the definition for “Direct Current Fast Charger (DCFC)” to add the common industry acronym “DCFC EVSE.” This acronym is used throughout the proposed regulation.

§ 2360(b) Staff is proposing to add a definition for “installed” to describe the EVSE condition associated with regulation compliance and reporting requirements in response to public comments received for the 45-day notice. The term “installed” is used throughout the proposed regulation. Commenters voiced confusion on the variety of dates in the EVSE development process that could be considered “installed.” The added definition addresses that confusion by specifying that the date to be used is the date the EVSE is made available to the public.

§ 2360(b) Staff is proposing to modify the definition for “Level 2 Electric Vehicle Supply Equipment (Level 2 EVSE)” to strike the word “energy” from the definition. The word “energy” is, in context, superfluous, and the existing word “electricity” adequately conveys the intended description of the function of a Level 2 EVSE.

§ 2360(b) Staff is proposing to modify the definition for “Level 2 Electric Vehicle Supply Equipment (Level 2 EVSE)” to strike the “ing” from the word “refueling” in the definition. This change corrects a grammatical error.

§ 2360(b) Staff is proposing to modify the definition for “mobile payment” to

provide more flexibility to industry to provide different types of mobile payment devices. Instead of requiring a near field communication reader, the definition for mobile payment uses a performance-based standard—the ability for the driver to use a cell phone to complete a transaction.

§ 2360(b) Staff is proposing to modify the definition for “publicly available Electric Vehicle Supply Equipment (publicly available EVSE)” to add the common acronyms “DCFC EVSE” and “Level 2 EVSE.” These acronyms are used throughout the proposed regulation.

§ 2360(b) Staff is proposing to add a definition for “replaced” to indicate EVSE conditions associated with regulation compliance in response to public comments received for the 45-day notice. Some commenters requested a longer period to comply with retrofit requirements. Staff proposed extending the deadline to 2033, but also proposed that EVSE should be retrofitted if they undergo a replacement before 2033. The definition of replaced specifies when that condition is met—namely, when the serial number, ID, or model name of the EVSE is changed.

2. Modifications to Section 2360.1 Requirements for Labeling Electric Vehicle Supply Equipment

§ 2360.1(b) Staff is proposing to add “EVSE” for consistency with the defined acronyms to identify actions to be taken on DCFC units.

§ 2360.1(b) Staff is proposing to change the DCFC labeling compliance date to January 1, 2022, to align with the modified payment hardware compliance date in § 2360.2. This modification is in response to public comments received during the 45-day notice, as well as Board direction, requesting a later compliance deadline to allow completion of current projects under contract.

§ 2360.1(c) Staff is proposing to move “Level 2” within the paragraph to clearly identify the object for which action is required.

§ 2360.1(d) Staff is proposing to create a new section 2360.1(d), moving requirements in the 45-day proposal as section 2360.2(g) to section 2360.1. The modification aligns EVSE labeling requirements under one section.

§ 2360.1(d) Staff is also proposing minor grammatical modifications to the existing language, and proposing to add the phrase “if the EVSE requires payment for use” to assure regulated parties that the requirements of new section 2360.1(d) only apply to EVSEs that drivers must pay to use. This assurance is necessary because section 2360.1 otherwise applies to all publicly available EVSE.

3. Modifications to Section 2360.2 Payment Method Requirements for Electric Vehicle Supply Equipment

§ 2360.2(c)(1) Staff is proposing to insert “EVSE” for consistency with the defined acronyms to identify actions to be taken on DCFC units.

§ 2360.2(c)(1) Staff is proposing to change the DCFC payment method hardware compliance deadline to January 1, 2022, for equipment installed on or after January 1, 2022. The 45-day notice had a deadline of July 1, 2020, for equipment installed on or after July 1, 2020. This modification is in response to public comments received during the 45-day notice, as well as Board direction, requesting a later compliance deadline to allow completion of current projects under contract.

§ 2360.2(c)(1) Staff is proposing to change the payment method hardware compliance deadline for DCFC EVSE installed prior to January 1, 2022, to when the equipment is replaced but no later than July 1, 2033. The 45-day notice had a deadline of five years from the date of installation or July 1, 2020 (whichever is later). This modification is in response to public comments received for the 45-day notice, as well as Board direction, requesting compliance exemptions or extensions for existing equipment. The proposed change provides additional time for existing equipment to meet payment method hardware requirements, while also requiring equipment to meet payment method hardware requirements if the equipment undergoes replacement prior to the 2033 deadline. With the modifications to the timeline, the proposed regulation will not result in requiring equipment to be replaced prior to the end of its estimated ten-year useful life.

§ 2360.2(c)(2) Staff is proposing to change the Level 2 EVSE payment hardware compliance deadline for Level 2 installed prior to July 1, 2023, to when the equipment is replaced but no later than July 1, 2033. The 45-day notice had a deadline of five years from date of installation or July 1, 2023 (whichever is later). This modification is in response to public comments received for the 45-day notice, as well as Board direction, requesting compliance exemptions or extensions for existing equipment. The proposed change provides additional time for existing equipment to meet payment hardware requirements, while also requiring equipment to meet payment method hardware requirements if the equipment undergoes replacement prior to the 2033 deadline. With the modifications to the timeline, the proposed regulation will not result in requiring equipment to be replaced prior to the end of its estimated ten-year useful life.

§ 2360.2(d)(1) Staff is proposing to add into section 2360.2(d)(1) the phrase “one of the following credit card types” to address confusion between the requirement to accept a “chipped” card—a Euro Mastercard Visa (EMV) chip—and the requirement for the reader to accept at least one commonly used credit card type.

§ 2360.2(g) Staff is proposing to move section 2360.2(g) to section 2360.1(d) as described earlier in this notice.

§ 2360.2(h) Staff is proposing to change the lettering of section 2360.2(h) to 2360.2(g) due to moving section 2360.2(g) to section 2360.1(d).

4. Modifications to Section 2360.3 Facilitating Roaming Agreements

§ 2360.3(b) Staff is proposing replace the word “By” with “No later than” in order to eliminate any ambiguity about the deadline to comply with section 2360.3 (b).

§ 2360.3(b) Staff is proposing minor grammatical modifications.

5. Modifications to Section 2360.4 Reporting for Electric Vehicle Service Providers

§ 2360.4(b)(3) Staff is proposing to delete “and usage information” for the section because subsection (i) no longer contains usage information.

§ 2360.4(c) Staff is proposing to add the word “available” to be consistent with the definitions listed in the applicability section.

§ 2360.4(c)(3) Staff is proposing to delete section 2360.4(c)(3), which would have required the level of information equivalent to what is required in an annual report as part of the initial reporting. Comments received during the 45-day notice period stated that it would be difficult for EVSPs to provide this level of detail as part of the initial report. Staff is proposing to simplify the initial reporting requirements by eliminating the subsection (c)(3) reporting requirement.

§ 2360.4(e) Staff is proposing to add language which indicates when and whom shall submit the EVSE payment report. Staff is also proposing to add clarifying language on who will be responsible for reporting the payment usage information. Public comment indicated that at times, multiple parties can have the same information. Public comment has also indicated there was confusion on what conditions triggered the EVSE payment report. The modifications specify which party will send the required information to CARB. The modifications also specify what conditions will trigger an EVSE payment report.

§ 2360.4(e) Staff is proposing to change the due date of the first annual report in section 2360.4(e) to March 1, 2022, for calendar year 2021. The 45-day proposal stated a first annual report due date of March 1, 2021. This modification aligns reporting with when payment hardware requirements start under the proposed modifications in this notice.

§ 2360.4(h)(9) Staff is proposing minor grammatical modifications.

§ 2360.4(h)(10) Staff is proposing minor grammatical modifications.

§ 2360.4(h)(10) Staff is proposing to add “model photos: front, back, payment hardware, fee display (if display is multiple pages, include photos of complete information)” to the Kiosk reporting information. This addition identifies what information the EVSP will submit for reporting, and makes the reporting requirements for a kiosk consistent with the reporting requirements for an EVSE.

§ 2360.4(i) Staff is proposing to split the annual report into two subtypes of required information: inventory information as specified in subsection (i), and payment information for all EVSE that require payment, as specified in subsection (j). Staff is proposing to add these requirements to section 2360.4(e). Based on comments received, the prior structure confused potentially regulated parties because it did not adequately separate the annual reporting requirements for all publicly available EVSE from those EVSE that require payment for use. This new reporting structure addresses that confusion.

§ 2360.4(i)(1)(C) Staff is proposing to add “serial number” as an alternative for EVSE ID. This modification provides flexibility for inventory reporting.

§ 2360.4(j) Staff is proposing to move the required annual EVSE payment information in section 2360.4(i)(3) through (8) to section 2360.4(j), for reasons described above.

§ 2360.4(i)(2) Staff is proposing to add “removed” to the listing of retired or decommissioned EVSE to encompass situations when an EVSE may be removed from a site—thus constituting an inventory change required to be listed in the annual report—even though the EVSE may not technically be “retired” or “decommissioned.”

§ 2360.4(i)(2)(C) Staff is proposing to add “serial number” as an alternative for EVSE ID. This modification provides flexibility for inventory reporting.

§ 2360.4(i)(2)(D) Staff is proposing minor grammatical modifications.

§ 2360.4(i)(2)(E) Staff is proposing minor grammatical modifications.

§ 2360.4(i)(2)(F) Staff is proposing minor grammatical modifications.

§ 2360.4(i)(9) Staff is proposing to delete the requirement in section 2360.4(i)(9) that EVSP report the total operational time for various payment options. This modification addresses comments that providing operational time at the requested level of granularity would be very difficult.

§ 2360.4(i)(10) Staff is proposing to delete the requirement in section

2360.4(i)(10) that EVSP report the pricing schedule for each EVSE. Some of this information is already captured by the reporting requirements to National Renewable Energy Laboratory (NREL) Alternative Fuels Data Center (AFDC) in section 2360.4(k), and commenters voiced concern with providing pricing schedules at the requested level of granularity.

§ 2360.4(j) Staff is proposing to place annual payment reporting requirements in section 2360(j), for reasons described above. Staff is also proposing that the payment information be reported in statewide aggregated numbers by payment type. This addresses concerns about data confidentiality and difficulty in providing data at the level of individual EVSE, voiced by certain commenters.

§ 2360.4(k)(1) Staff is proposing to add in section 2360.6(k)(1) an implementation date for reporting to the NREL AFDC. EVSPs must begin NREL reporting requirements six months after the effective date of the regulation. This modification provides a clear starting date for NREL reporting requirements.

§ 2360.4(k)(4) Staff is proposing to strike “NREL” and add “The” to the action that will be completed by the EVSP. This modification identifies the party who is responsible for reporting the information to NREL. Because subsection (k)(1) already specifies that the information in subsection (k) must be reported to NREL, the additional label “NREL” in subsection (k)(4) was superfluous and potentially confusing.

§ 2360.4(k)(4)(D) Staff is proposing minor grammatical modifications.

§ 2360.4(k)(4)(F) Staff is proposing minor grammatical modifications.

§ 2360.4(k)(4)(K) Staff is proposing minor grammatical modifications.

§ 2360.4(k)(4)(S) Staff is proposing minor grammatical modifications.

§ 2360.4(k)(4)(U) Staff is proposing minor grammatical modifications.

§ 2360.4(k)(4)(V) Staff is proposing minor grammatical modifications.

§ 2360.4(l) Staff is proposing to change the lettering of section 2360.4(k) from the 45-day notice to 2360.4(l) due to the movement of annual payment reporting requirements section to 2360.4(j).

§ 2360.4(m) Staff is proposing to change the lettering of section 2360.4(l) from the 45-day notice to 2360.4(m) due to the movement of annual payment reporting requirements section to 2360.4(j).

Additional Documents

The following documents are being added to the record for this rulemaking in anticipation of referencing them in the Final Statement of Reasons section for CARB responses to public comments submitted during the 45-day public review period prior to the June 2019 Board hearing:

- City of Sacramento, 2019a. "Re: Follow-Up – City-owned EVSE." Email communication with Jennifer Venema, Sustainability Manager, City of Sacramento, on July 23, 2019.
- City of Sacramento, 2019b. "SacTo Zero Task 4.1: Evaluate Current Status and Utilization of Public and Workplace EVSE" ARV-17-042, March 29, 2019.
- County of Los Angeles, 2019. "RE: LA County EVSE counts." Email communication with Richard Teebay, Internal Services Department, County of Los Angeles, on July 24, 2019.
- U.S. DOE Alternative Fuels Data Center, 2019. "Alternative Fuel Stations," August 23, 2019.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Stephanie Palmer, Air Resources Engineer, Zero Emission Vehicle Implementation Section, at (916) 322-7620, or Elise Keddie, Manager, Zero Emission Vehicle Implementation Section, at (916) 323-8974.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

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

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

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal 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.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations and the documents added to the record shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: *September 4, 2019*

Attachment

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 CARB's website at www.ARB.ca.gov.

