

# Addendum to the Final Statement of Reasons for Rulemaking

## Public Hearing to Consider Proposed Revisions to the On-Board Diagnostic System Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Engines, and Heavy-Duty Engines

Public Hearing Date: July 22, 2021

Agenda Item No.: 21-6-1

Addendum Prepared: November 18, 2022

### I. General Discussion

This addendum to the Final Statement of Reasons (FSOR) for the rulemaking action entitled "Public Hearing to Consider Proposed Revisions to the On-Board Diagnostic System Requirements and Associated Enforcement Provisions for Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles and Engines, and Heavy-Duty Engines" updates the original FSOR that the California Air Resources Board (CARB) submitted to the Office of Administrative Law (OAL) on July 20, 2022.

### II. Non-Substantial Modifications

The non-substantial modifications described below clarify and do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the Proposed Amendments, as approved for adoption by the California Air Resources Board (CARB). (See Cal. Code Regs., tit. 1, § 40)

After submittal of the FSOR, on July 20, 2022, the following non-substantial modifications were made to the Final Regulatory Order:

#### Section 1968.2

- Subsection (c) "Calculated load value:" Added "(SAE J1979-2)," as the abbreviation for the incorporated SAE J1979-2 "E/E Diagnostic Test Modes - OBDOnUDS" since this abbreviation is used elsewhere in the amended text.

- Subsection (d)(4.3.2)(L): Added strikethrough to the last closing parenthesis at the end of this provision for improved punctuation.
- Subsection (e)(11.2.2)(A): The “ny” from “Any” and the space directly following were erroneously omitted from the final regulatory text originally submitted to OAL. During the first 15-day changes, language was added to the beginning of the sentence and the “a” from “Any” was changed to lowercase. Added back “any” to be consistent with the current regulatory text.
- Subsections (e)(11.2.3), (11.2.3)(C), (11.2.4)(C)(ii), and (11.3.1): Updated capitalization of “Cold Start Catalyst Heating Monitor” to “Cold start catalyst heating monitor” or “cold start catalyst heating monitor” to be consistent throughout the regulation.
- Subsections (f)(1.2.4)(B)(iii)a., (1.2.4)(B)(iii)b., (2.2.4)(B)(iii)a., (2.2.4)(B)(iii)b., (8.2.4)(B)(iii)a., and (8.2.4)(B)(iii)b.: Updated the last sentence in these provisions that previously stated, “when the OBD system was approved by the Executive Officer will be used in place of the OBD thresholds specified in the regulation,” to change “approved” to “certified” and add “per section (k)” so it now states, “when the OBD system was certified by the Executive Officer per section (k) will be used in place of the OBD thresholds specified in the regulation.” These changes were made to indicate that the Executive Officer’s approval referenced in these subsections was always connected to the certification per section (k). Updating the language for this section adds consistency to the language referenced in section (k).
- Subsection (f)(5.2.2)(D)(ii): Removed “Notwithstanding,” from the beginning of this provision and capitalized “if” for improved syntax and readability.
- Subsection (f)(7.3.2)(A): Added underline to the period at the end of this subsection for improved punctuation.
- Subsection (f)(9.2.1)(A)(ii)c.: The previous final regulatory text originally submitted to OAL was missing the “and” from the end of this subsection, so added back “and” and added strikethrough to show it being removed from here with these amendments for improved grammar/syntax.
- Subsection (g)(1.14): Added a period at the end for improved punctuation.
- Subsection (g)(4.4.5)(A): Removed an extra period at the end of this provision for improved punctuation. The current text already has a period so there is no need to add one with these amendments.

- Subsection (h)(2.2.1): Removed an extraneous period at the end of this provision for improved punctuation (the amended text currently has a colon at the end of this provision, which is the intended punctuation).

## § 1968.5

- Subsection (b)(6)(B)(i)b.: Added a comma at the end of this provision for improved punctuation consistent with the other provisions within this subsection.

## § 1971.1

- Subsection (c) "Calculated load value:" Added "(SAE J1979-2)," as the abbreviation for the incorporated SAE J1979-2 "E/E Diagnostic Test Modes - OBD on UDS" since this abbreviation is used elsewhere in the amended text.
- Subsection (d)(2): Removed the "\* \* \* \*" between subsection headings (2) and (2.1) as there is no amended text between these two subsections and thus no need to have an indicator noting text is being omitted.
- Subsection (d)(4.5.4): Removed the "\* \* \* \*" between subsection (4.5.4) and (5) as there is no amended text between these two subsections and thus no need to have an indicator noting text is being omitted.
- Subsections (e)(5.2.4)(B)(iii)a., (5.2.4)(B)(iii)b., (6.2.3)(B)(iii)a., (6.2.3)(B)(iii)b., (7.2.6)(B)(iii)a., and (7.2.6)(B)(iii)b.: Updated the last sentence in these provisions that previously stated, "when the OBD system was approved by the Executive Officer will be used in place of the OBD thresholds specified in the regulation," to change "approved" to "certified" and add "per section (k)" so it now states, "when the OBD system was certified by the Executive Officer per section (k) will be used in place of the OBD thresholds specified in the regulation." These changes were made to indicate that the Executive Officer's approval references in these subsections was always connected to the certification per section (k). Updating the language for this section adds consistency to the language referenced in section (k).
- Subsection (e)(9.2.2)(D)(ii): Removed "Notwithstanding," from the beginning of this provision and capitalized "if" for improved syntax and readability.
- Subsections (f)(4.2.3), (4.2.3)(C), (4.2.4)(C)(ii), and (4.3.1): Updated "Cold Start Catalyst Heating Monitor" to "Cold start catalyst heating monitor" to be consistent throughout the regulation.
- Subsection (h)(4.4.1)(F)(iv): Updated the final regulatory text originally submitted to OAL to show the semi-colon at the end of this provision as single underline per

final regulatory text formatting instead of the previous double underline from when it was introduced in the first 15-day changes.

- Subsection (l)(1.3.2): Removed the “\* \* \* \*” between subsection (1.3.2) and (1.4) as there is no amended text between these two subsections and thus no need to have an indicator noting text is being omitted.
- Subsection (l)(1.5.1): Removed the colon at the end of this provision for improved punctuation (the amended text will now end this provision with a period).

### **III. Modifications to the Original Summary of Comments and Agency Responses in the FSOR**

For the comment submitted by Ventura Young during the 45-day comment period, the FSOR indicated that this comment was not relevant to the amendments for this OBD rulemaking update and were therefore not summarized in the FSOR. This Addendum provides more details about the comment and response.

The comment, in which the commenter is opposed to the banning of ECU tuning for vehicle performance changes (e.g., to burn fuel better), is aimed at the more recent changes to the Smog Check pass/fail criteria set by the Bureau of Automotive Repair, which now will fail vehicles with tampered ECU programming. The amendments being proposed in the OBD regulations are not related to these Smog Check changes.

### **IV. Supplemental Rationale/Necessity for the Initial Statement of Reasons (ISOR)**

More explanation is provided for the added language for readiness status requirements in sections 1968.2(g)(4.1.2)(E), 1971.1.1(h)(4.1.1)(l), and 1971.1(h)(4.1.2)(F). These provisions would allow manufacturers to request Executive Officer approval to set readiness status to “complete” if monitoring is disabled for multiple driving cycles due to the continued presence of extreme operating conditions (e.g., cold ambient temperatures, high altitudes). Executive Officer approval would be based on “the conditions for monitoring system disablement and the number of driving cycles specified without completion of monitoring before readiness is indicated as ‘complete’.” This allowance is currently provided in the OBD II regulation (previously section 1968.2(g)(4.1.6), renumbered to 1968.2(g)(4.1.1)(G)) to avoid light- and medium-duty vehicles from failing Smog Check due to unset readiness bits solely because the vehicle was being operated in extreme conditions in which monitoring was routinely disabled. For the OBD II regulation, this allowance was carried over to the new readiness requirements applicable for vehicles using SAE J1979-2. Regarding the HD OBD regulation, as explained in the first 15-day notice, this provision was added to the HD OBD regulation since heavy-duty trucks will soon be subject to a

heavy-duty I/M program, so staff anticipated such a provision would be needed for heavy-duty vehicles as well. The newly added sections use the same language as the current language in the OBD II regulation, which has been used for many years since the adoption of section 1968.2 in 2002. Since the language is familiar to the regulated community, the language was carried over to sections 1968.2(g)(4.1.2)(E), 1971.1.1(h)(4.1.1)(I), and 1971.1(h)(4.1.2)(F).