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Descriptions of the proposed changes to the regulations and the reasons for making them.

This discussion does not address non-substantive modifications to correct typographical or grammatical errors, changes in numbering or formatting, addition of or edits to internal regulatory cross-references, or similar revisions that improve clarity.

Proposed Modifications to Section 1962.4, Zero-Emission Vehicle Standards for 2026 and Subsequent Model Year Passenger Cars and Light-Duty Trucks

1. Subsections (a)(2)(A) and (B). Staff proposes to make explicit that medium-duty zero-emission vehicles (ZEVs) are also subject to this section—i.e., that subsection 1962.4(i) includes requirements that also apply to manufacturers who produce and deliver for sale medium-duty ZEVs and neighborhood electric vehicles. However, because manufacturers also have zero-emission obligations for heavy- and medium-duty vehicles under the Advanced Clean Trucks Regulation (ACT), staff is making clear the certification procedures contained in subsection 1962.4(i) apply to medium-duty ZEVs a manufacturer chooses to use for compliance with section 1962.4. This is necessary to align with the proposed test procedures and current practice (both of which explicitly included medium-duty ZEVs) and is responsive to stakeholder comments.

Additionally, in the proposed text made available with the Initial Statement of Reasons (ISOR), staff had created a certification path for neighborhood electric vehicles. Staff is proposing to add additional language to this applicability section to make clear the certification requirements of section 1962.4 apply to manufacturers of neighborhood electric vehicles. With respect to both categories of vehicles, the certification requirements are necessary to ensure emissions are reduced as intended.

2. Subsection (c)(1)(C). Staff is proposing two modifications to this subsection. First, staff is proposing medium-duty ZEVs produced and delivered for sale in California that are optionally certified to section 1962.4 are counted in the production volume used to calculate a manufacturer's requirement. While other proposed provisions in subsection (i)(6) describe how manufacturers can earn values for medium-duty ZEVs and count toward meeting a manufacturer's annual ZEV requirement, these proposed revisions are necessary to ensure that those vehicles are included in the calculation of its production volume. This better ensures compliance with a 100-percent ZEV mandate in 2035 by eliminating a potential loophole for manufacturers to add more weight to vehicles and reclassify as medium-duty vehicles to reduce their obligations under the light-

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duty regulations to reduce emissions from their vehicle fleets. As described above, it is expected manufacturers who take advantage of this option will be those who convert light-duty gasoline or diesel trucks into battery electric vehicles (BEVs), and where the weight of the battery pushes them vehicles over 8,500 pounds.

The second proposed modification to subsection (c)(1)(C) is necessary to make clear that manufacturers have the choice of the determination method for their production volume (which is used in calculating their annual ZEV requirement) through model year 2034 but will be required to use the newly proposed “same-year” method for 2035 and subsequent model years. A full description of these modifications can be found in the description of subsection (c)(1)(C)(1), item (A)3. of this Notice.

3. Subsection (c)(1)(C)1. Staff is proposing modifications to this subsection that are necessary to make clear that manufacturers may use the previous-year average method (previously proposed as the default method) to determine production volume through 2034 model year. Staff’s proposed 2035 model year 100-percent stringency can only reach 100-percent if a same-year method for manufacturers is used in 2035 and subsequent model years. If a previous-year average were to continue to be used to determine production volume, manufacturers could end up required to generate more ZEVs than the actual number of vehicles they produce in 2035 or may be required to generate less than 100-percent ZEVs and PHEVs. This modification aligns with the overall goal of achieving 100-percent ZEVs and PHEV sales by the 2035 model year and avoids an unintended or nonsensical result.

Additionally, subsection (c)(1)(C)2. proposed in staff’s ISOR has been reorganized and combined with this subsection (c)(1)(C)1. to allow manufacturers to utilize a same-year calculation in the event production volume drops 30 percent or more in a given model year. These modifications do not change the substantive requirements of staff’s original proposal but does reorganize regulatory language proposed in staff’s ISOR. These proposed changes are necessary for clarity, organization, and readability.

4. Subsection (c)(1)(C)2. Staff is proposing to allow a manufacturer to elect a same-year method for determining production volume prior to the 2035 model year and to require all manufacturers to use the same-year method for 2035 and subsequent model years. While the provision allows a manufacturer to elect a same-year method at any point before the 2035 model year, once such a selection has been made, manufacturers are required to use this method for all future model years as well. This is necessary to prevent manufacturers from alternating between the two methods solely to minimize the obligation to produce ZEVs. The requirement for all manufacturers to use the same-year method in the 2035 model year and beyond will ensure that actual production volumes for the 2035 model year will be used to calculate manufacturers’ 100-

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percent requirement in the 2035 model year, which is necessary to ensure that the regulations achieve their intended emissions benefits.

5. Subsection (d)(2)(A) and (B). Staff is proposing to add a provision that reduces the stringency of the durability requirement linked to electric range degradation in ZEVs from 80-percent to 70-percent for the first four years of the proposed regulation. This is necessary to avoid undue burdens and better align with current durability targets used by manufacturers that have already committed to battery chemistries in existing or soon to be launched vehicle designs scheduled for production into the first few model years of the proposed regulation. In conjunction with this change, staff is proposing a corresponding change that manufacturers must design for 70-percent or more of the vehicles in a test group to meet this durability requirement rather than designing for vehicles, on average (i.e., 50-percent), to meet it. These two changes are necessary to align with current practice, which increases manufacturer familiarity, reduces burden lacking commensurate benefit, and likely improves compliance to ensure emissions are reduced as intended. The changes make the durability requirement more consistent with what vehicle manufacturers have represented their current internal design targets are and their projected in-use deterioration will be, especially on products that are too far along in the design process to be changed. This is also necessary to reduce burden on regulated entities that lacks commensurate benefit. Reducing the requirement for these early model years will allow for additional lead time for manufacturers to incorporate the future requirements into subsequent designs rather than redesign planned products to meet the 80-percent durability requirement in 2030 and subsequent model years. The additional lead time will also provide manufacturers expanded opportunity to learn about in-use degradation from vehicles being introduced now and incorporate such feedback to refine their design practices and durability projections.
6. Subsection (e)(1)(A)8. Staff is proposing a correction to the minimum certified range value that is required for plug-in hybrid electric vehicles (PHEVs) in order to be certified to section 1962.4 and count toward a manufacturer's ZEV obligation. This factor is being corrected from 73 miles to 70 miles 2-cycle test range because it better correlates, with rounding, to the intended design target of approximately 50 miles of typical, or real world, driving range. Additionally, this minor change has little practical effect as this is a minimum qualification that most vehicles would be designed to exceed with some margin. This change is necessary to provide a correction, which improves clarity and transparency for regulated entities and other stakeholders by aligning with the original intent of a design target of 50 miles of real-world driving range.
7. Subsection (e)(1)(B). Staff is proposing additional language to this subsection to clarify that PHEVs only qualify for up to one vehicle value, which is necessary to preclude double counting. The language proposed makes clear that PHEVs with

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less than 70 miles and greater than or equal to 43 miles may be counted only at a partial vehicle value according to the equation in subsection (e)(1)(B)1.

8. Subsection (e)(2)(A). Staff is proposing to allow manufacturers to begin earning community-based clean mobility program environmental justice vehicle values in 2024 model year, as opposed to 2026 model year. Staff is proposing this as a way to provide more benefits to programs focused on community mobility programs sooner. Implementers of community-based clean mobility programs already purchase vehicles based on a community's unique needs and driving patterns. Extending this timeline to include the 2024 and 2025 model years is necessary to help incentivize manufacturers to provide discounts on individual vehicles earlier than they otherwise would, delivering benefits that much sooner.
9. Subsections (e)(2)(A), (e)(2)(A)1.a.-c., (e)(2)(A)2., (e)(2)(A)3.-3.g., (j)(2)(C)1., (l). These subsections are being modified to remove "qualifying" or "qualifying determination" to align with the definition of "community-based clean mobility program" provided in subsection (l). Subsections under (e)(2)(A)3. outline the criteria and process for a program to qualify as a "community-based clean mobility program." The modifications (omitted instances of the term "qualifying" and replacement of the term "qualifying program determination" with "program qualification") are necessary to avoid potential conflation of the qualification criteria and process with creation of an additional undefined term, "qualifying community-based clean mobility program," that differs from the defined term "community-based clean mobility program" in some way.
10. Subsection (e)(2)(A)1.b. Staff is proposing to remove language referring to a minimum 6-seat passenger capacity for PHEVs to qualify to earn environmental justice vehicle values. Though currently approved programs only allow PHEVs with 6-seat capacity into their car sharing programs, these and other new programs may not have the same limitations in the future. Therefore, staff is proposing this modification, which is necessary to allow the programs themselves to determine qualifying vehicles into the future rather than be dictated by a cross-reference in the ZEV regulation.
11. Subsection (e)(2)(A)3.b.i. Staff is proposing to replace the term "confirmation" with "attestation," which staff are separately proposing to define under this section to ensure compliance with Code of Civil Procedure section 2015.5, to ensure that manufacturers provide accurate and complete information under this subsection. This assurance is necessary to ensure that the Executive Officer receives the valid and complete information necessary to consider and, as appropriate, approve community-based clean mobility programs for participation under this subsection without burdening the community-based clean mobility programs themselves.
12. Subsection (e)(2)(A)3.b.iv. Staff is proposing to replace the term "attestation" with "written communication" in this subsection. This change will distinguish

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between the communication described in this subsection, which is not subject to Code of Civil Procedure section 2015.5, and attestations, which staff are separately proposing to define under this section to ensure compliance with Code of Civil Procedure section 2015.5, where appropriate. Staff is also proposing to delete subsection (e)(2)(A)3.b.iv.IV., which is replaced by the proposed revision to subsection (e)(2)(A)3.b.i. requiring the manufacturer to attest that the community-based clean mobility program meets the definition under this section. This change is necessary to ensure that the Executive Officer receives valid and complete information needed to consider and, as appropriate, approve community-based clean mobility programs for participation under this subsection without burdening the community-based clean mobility programs themselves.

13. Subsection (e)(2)(A)3.d. Staff is proposing additional language to make explicit the purpose and content of the referenced Executive Order, which is to designate each approved community-based clean mobility program that is eligible to generate environmental justice vehicle values under this section. This specificity is necessary to notify vehicle manufacturers and other stakeholders that a particular community-based clean mobility program is eligible to generate environmental justice vehicle values under this section.
14. Subsection (e)(2)(A)3.e. Staff is proposing additional language to make explicit the process by which the Executive Officer shall conduct its review process on a renewal request for community-based clean mobility programs by referencing the review process for new requests outlined in subsections (e)(2)(A)3.c. and (e)(2)(A)3.d. This proposed language is necessary for clarity and transparency.
15. Subsection (e)(2)(A)3.f. Staff is proposing to remove this subsection concerning audit of a manufacturer's provision of vehicles to a community-based clean mobility program because such record review is covered by the proposed new text in subsection (j)(5). Staff is also proposing to remove language concerning audit of a community-based clean mobility program, which is not necessary to verify a manufacturer's compliance with the requirements for earning environmental justice vehicle values and which risks unduly burdening participating community-based clean mobility programs. This proposed change is necessary to remove redundancy, to improve clarity, and to prevent possible ambiguity for regulated entities and other stakeholders.
16. Subsection (e)(2)(C). Staff is proposing to add language to clarify that the consumer price index adjustment to a manufacturer's suggested retail price values will begin with the 2026 model year, the first year this value is offered. This proposed language is necessary to specify the starting point for this adjustment.
17. Subsection (e)(2)(B). Staff is proposing to give an additional 0.15 value to those vehicles sold to a financial assistance program participant. Used, off-lease

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vehicles have the potential to be a significant source of vehicles for many Californians because of their potential to be often offered at lower prices than new vehicles. Incentives to keep clean technology vehicles in the state will expand the benefits of the proposed regulation to many more Californians, especially to those participating in financial assistance programs the aid lower income individuals into electric vehicles. The additional value is intended to incentivize manufacturers to in turn incentivize dealers to direct those off-lease ZEVs and PHEVs toward those most in need of the vehicles. A value of 0.15 was chosen as it had previously been publicly workshopped and because it corresponds to the greater benefit to low-income individuals that the action is providing. It is a reasonable value that is not too high to discourage manufacturers from additional action, nor so low that it would fail to incentivize action, based on discussions with stakeholders and as received in feedback during previous workshops. This proposed change is necessary to achieve the intended environmental justice benefits of the regulation, as it further ensures the intended benefits are realized by lower-income individuals who participate in financial assistance programs.

18. Subsection (e)(3)(D), (f)(1)(D) (modification 1), (f)(3)(E) (modification 1), (g)(1)(B). Staff is proposing to modify the model years in which manufacturers may apply early compliance vehicle values from originally proposed as specific to model years 2026 through 2028 to being allowed to use such values in the first three years after the commencement of the regulation requirements, which is necessary to accommodate and not frustrate implementation in any other states that exercise their authority and choose to adopt this regulation for subsequent model years under the authority of Section 177 of the Clean Air Act, 42 U.S.C. section 7507, but without changing the expected implementation in California. Moreover, this modified language in each subsection ensures implementation as intended (and as reflected in staff's ISOR proposal) in the event of unforeseen delays in the effective date of the regulations.
19. Subsection (f)(1)(D) (modification 2), (f)(3)(A), and (f)(3)(E) (modification 2). Staff is also proposing to remove language that may be inconsistent with how early action vehicle values are earned and banked within section 1962.4. Early action values are earned two years prior to the commencement of the Advanced Clean Cars II (ACC II) ZEV regulation requirements, and therefore are already banked. Staff is proposing to remove language that may have mistakenly implied that values could continue to be earned or newly banked in years after the commencement of the ACC II ZEV requirements, which is necessary to remove ambiguity, for clarity and transparency, and to ensure accuracy and compliance.
20. Subsection (f)(2). Staff is proposing to replace instances of the term "excess" with "surplus" when the term refers to ZEV requirement performance that exceeds the applicable annual ZEV requirement. This is necessary to avoid potential confusion given that "excess" is used in this section to reference both the values that comprise a surplus and values earned in a given year above the

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allowance for the particular value type. A surplus, by contrast, refers to the overall calculation versus the ZEV requirement, in the same manner as and as a corollary to “shortfall.” To further clarify that a surplus refers to a manufacturer’s calculated performance, when it exceeds the applicable annual ZEV requirement, staff is proposing to remove the terms “ZEV” and “ZEVs” from the subsection where it may inaccurately imply that the values referenced are only ZEV values rather than the sum of vehicle values under subsection (f)(1). These proposed edits are in parallel to the proposed added definitions of “surplus” and “excess values.”

21. Subsection (f)(3)(B). Staff is proposing modifications to this subsection to make explicit and clear that excess ZEV, PHEV, and environmental justice values, as well as early compliance values, may be traded, but that these values must be used by a manufacturer to fulfill any remaining eligible deficits, within the applicable allowance, before they can be traded. This is necessary to ensure that emission reductions from the ZEV requirements are maximized.
22. Subsections (f)(3)(C) and (D). Staff is proposing edits that are necessary to simplify and clarify these subsections, as stakeholders expressed confusion as to how many model years after being earned that excess vehicle values are eligible to be used. The proposed modifications to subsection (f)(3)(C) make explicit that excess ZEV and PHEV values can be retained for an additional four model years after they are earned. The modifications to subsection (f)(3)(D) make explicit that excess environmental justice vehicle values retain value through 2031 model year.
23. Subsection (f)(3)(E). Staff is proposing to replace the references to specific model years with references to model years relative to the beginning of annual ZEV requirements. This change is necessary to make the subsection equally applicable in any Section 177 states where annual ZEV requirements do not begin to apply until after the 2026 model year.
24. Subsection (f)(4)(A). Staff is proposing to add “surplus” vehicle values to this subsection, which is necessary to clarify that the provision applies to both surplus vehicle values, which staff is proposing in these 15-day changes to define as ZEV requirement performance exceeding the annual ZEV requirement, and excess vehicle values, which are values earned exceeding the allowance for the value type under subsection (e) or the values that comprise a surplus.
25. Subsections (f)(4)(A)1. through 3. Staff is proposing to reorganize subsection (f)(4)(A) into three subsections, which is necessary to improve the readability of this subsection regarding rules for trading excess vehicle values and therefore overall clarity.
26. Subsection (f)(4)(B). Staff is proposing language to clarify that the term “trading manufacturers” includes both the buyer and seller in a given trade, and that the penalty for failure to notify the California Air Resources Board (CARB) is the rejection of the trade for all involved manufacturers. These clarifications are

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necessary to make explicit the responsibilities of manufacturers that engage in trades and the penalties for failure to meet these responsibilities.

27. Subsections (f)(4)(B) through (D). Staff is proposing clarifying language that is necessary to reduce ambiguity but does not change the intent of any of these proposed subsections around trades of section 1962.4 values.
28. Subsection (g)(1). Staff is proposing clarifying language that is necessary to reduce ambiguity but does not change the intent of how manufacturers are allowed to fulfill a shortfall of annual ZEV performance in any given model year. Additionally, proportional fuel cell electric vehicle (FCEV) values have been added as a compliance option for manufacturers required to fulfill a shortfall. This proposed change is necessary to improve clarity and prevent possible ambiguity in how the FCEV values as added in subsection (g)(4) are to be accounted.
29. Subsections (g)(1)(C) and (g)(2)(B). Staff is proposing to remove the converted ZEV and PHEV allowance from subsection (g)(1) and add language to subsection (g)(2)(B) to consolidate the explanation of how the converted ZEV and PHEV allowance is calculated. See below for a further explanation of the proposed changes to the requirements for these allowances in subsection (g)(2)(B). This proposed change is necessary to improve clarity.
30. Subsection (g)(1)(E). Staff is proposing additional language to this subsection to clarify that the combined usage of all vehicle values earned from PHEVs, including values earned from new PHEVs that model year, cannot violate the maximum PHEV allowance of 20 percent in any given model year. This is necessary for clarity and to support compliance by ensuring the maximum allowance is not mistakenly calculated solely on PHEV earned values used to fulfill a shortfall instead of also including actual PHEVs delivered for sale in the model year.
31. Subsection (g)(1)(F). Staff is proposing to allow proportional FCEV values to be allowed to fulfill a manufacturer's shortfall through 2030 up to the manufacturer's annual FCEV allowance. This change is intended to incentivize manufacturers to produce and deliver for sale FCEVs given staff's analysis that FCEVs will be an important technology to support the transition to 100 percent ZEVs and in recognition that the FCEV markets of other states that have adopted California's ZEV regulation and the necessary infrastructure needed within a state to support FCEV deployment are still developing. This proposed change is necessary to improve clarity and prevent possible ambiguity in how the FCEV values as added in subsection (g)(4) are to be accounted. The proposed change is necessary to achieve the intended benefits of the regulation and aligns with the overall goal of achieving 100-percent ZEVs and PHEV sales by the 2035 model year.
32. Subsection (g)(2)(A). Staff is proposing to modify the conversion factor for 2025 model year ZEV and PHEV credit balances, which is necessary to avoid

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unintended consequences. Staff is proposing to move to a factor of 2.1 in recognition of comments received regarding the separate factors that had the unintended consequence of making PHEV credits more valuable than the harder-to-earn and more expensive ZEV credits. The proposed conversion factor will be applied equally to both ZEV and PHEV 2025 MY credit bank balances as the original awarding of those credits already accounted for the differences in the technologies. A factor of 2.1 is being proposed based on the average credit amount earned for 2018 through 2021 PHEVs and ZEVs by manufacturers under the ACC I ZEV regulation. Second, staff is proposing to make explicit what is included in the category of converted ZEV values, removing the acronym "BEVx" and replacing with "range extended battery electric vehicle". This is not changing the meaning of what is included in the converted ZEV value category, but is necessary to improve readability and avoid confusion for the reader, thereby improving overall clarity.

33. Subsection (g)(2)(B). As explained in the Staff Report, manufacturers are allowed to meet up to 15 percent of their annual ZEV obligation, in cases where manufacturers have a shortfall, with converted ZEV and PHEV values. Staff is proposing this subsection to explain the annual allowance that is allowed, which is necessary to improve readability and make explicit this annual allowance. This is not a new proposal but is a new subsection that improves the organization and clarity of this subsection.
34. Subsection (g)(2)(C). Staff is proposing to add an option to allow manufacturers to use converted ZEV and PHEV values up to a cumulative allowance for the 2026 through 2030 model years combined rather than using the annual allowance for each year. This proposed modification requested by industry allows manufacturers to use the exact same total number of converted ZEV and PHEV values but with more flexibility on when to apply those values across the 2026 and 2030 model years to better align with their schedule for redesigns and introductions of ZEVs and PHEVs. However, to ensure consistent application of the allowances, the proposed regulation also requires a manufacturer that chooses the cumulative allowance option to use the cumulative allowance for all model years under this regulation through and including 2030, requires a manufacturer to state its election of the cumulative allowance for the first model year of this regulation (that is, 2026), and does not allow manufacturers applying the cumulative allowance to elect in any other year the annual allowance option. These additional constraints facilitate compliance tracking by eliminating the possibility of manufacturers switching options partway through the cumulative calculations and ensure that manufacturers cannot use more than the total allowance, closing any loopholes that may exist if manufacturers were allowed to opt in or out of the cumulative path multiple times over these model years. The addition of the cumulative allowance is necessary to reduce burden on regulated entities without commensurate benefit and improve likely compliance. The proposed requirements and limitations are necessary to ensure clarity, support compliance, and achieve the intended benefits of the regulation, aligning with

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the overall goal of achieving 100-percent ZEVs and PHEV sales by the 2035 model year.

35. Subsection (g)(2)(C)1. Staff is proposing a calculation method for manufacturers to determine the cumulative allowance for converted ZEV and PHEV values, which is accomplished by multiplying 10 percent by the annual ZEV requirement each model year and summing these values across the applicable model years. The proposed change is necessary to ensure clarity and support compliance.
36. Subsections (g)(2)(C)2.a. through (g)(2)(C)2.d. Staff is proposing to increase the cumulative allowance for converted ZEV and PHEV values from 10 percent to 15 percent per year if a manufacturer uses a minimum number of environmental justice values above the environmental justice cumulative allowance threshold, defined as 0.5 percent times the applicable model year annual ZEV requirement. If a manufacturer applies environmental justice values equal to or above this environmental justice cumulative allowance threshold in one of the model years from 2026 through 2028 (for example, model year 2026), then the manufacturer would increase the cumulative allowance for converted ZEV and PHEV values for the first three model years of the ZEV requirements (for example, 2026, 2027, and 2028 model years). If a manufacturer applies environmental justice values at or above the environmental justice cumulative allowance threshold in two of these three model years (for example, model years 2026 and 2027), then the manufacturer would increase the cumulative allowance for the first four model years of the ZEV requirements (for example, 2026, 2027, 2028 and 2029 model years). If a manufacturer applies environmental justice values equal to or above the environmental justice cumulative allowance threshold in all three model years from 2026 through 2028, then the manufacturer would increase the cumulative allowance for the first five model years of the ZEV requirements (for example, 2026, 2027, 2028, 2029 and 2030 model years).

This proposed tiered structure encourages manufacturers to generate environmental justice vehicle values for multiple model years to gain greater regulatory flexibility through a larger cumulative allowance. The proposed model years for earning this extra allowance is restricted to model years 2026 through 2028 to purposefully incentivize extra environmental justice actions in the earliest years of these ZEV requirements. The proposed model years for usage of this extra allowance are necessarily tied to the first three to five years of the ZEV requirements, up through but not past 2030 model year, to ensure equivalent requirements in any Section 177 states where annual ZEV requirements do not begin to apply until after the 2026 model year.

Setting the threshold for a manufacturer to use the larger cumulative allowance in relationship to environmental justice values is necessary to incentivize such use, which is necessary to further the intent of the regulations to reduce emissions in disproportionately impacted communities. It is necessary to select either generation or use for the threshold so that manufacturers may not claim the

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values both upon generation and again upon use, if the values are generated and used in different model years or by different manufacturers. Setting the threshold as environmental justice value use, rather than generation, is necessary to encourage generation of environmental justice values by manufacturers that may not need them by creating a demand by other manufacturers to acquire and use such values even if they are not in a position to generate the value themselves. These proposed changes are necessary to achieve the intended environmental justice benefits of the regulation, as they further ensure that manufacturers participate in the voluntary environmental justice provisions.

37. Subsection (g)(2)(C)3. Staff is proposing a method by which a manufacturer would report its use of these converted ZEV and PHEV values, including data supporting its calculation and designation of such values to meet a given shortfall. Staff is also proposing that if a manufacturer chooses to use the cumulative allowance option, that the manufacturer must submit data each year showing the calculation of the cumulative allowance earned so far and its total usage of converted values towards that allowance. If the manufacturer chooses to use more converted values in the early years of the requirements than are technically available based on the cumulative allowance calculated so far for the current and preceding model years, it is also required to submit projected sales data for the remaining model years to show its usage so far would not be violating the total cumulative allowance calculated at the end of 2030. This reporting is necessary to achieve the intended benefits of the regulation because it helps ensure and allows verification of compliance in each model year and over the years a cumulative allowance is used.
38. Subsection (g)(2)(C)4. Staff is proposing to clarify that, in the case that a manufacturer chooses to use the cumulative converted ZEV and PHEV allowance instead of the annual allowance, the manufacturer is still subject to (but on a likewise cumulative basis rather than annual basis) the overall PHEV allowance in subsection (g)(1)(F), consistent with the intent of the Initial Statement of Reasons to limit use of PHEVs to meet a manufacturer's compliance obligation. This proposed change is necessary to improve clarity, prevent possible ambiguity, and support compliance.
39. Subsections (g)(4)(A) through (C). Staff is proposing to allow manufacturers to earn proportional FCEV values for use in any state that has adopted these standards for each FCEV delivered for sale in the state that has adopted these standards. The proportional FCEV values earned in each state are equal to the percentage of FCEVs a manufacturer uses to meet the ZEV requirement in the state with the highest FCEV sales or 10 percent, whichever is lower. These proportional values are available for 2026 through 2030 model years because during these years FCEV costs are projected to remain higher than BEV costs and the availability of hydrogen refueling infrastructure is expected to be a constraining factor in most states. Further limiting these proportional FCEV values with a maximum allowance of 10 percent helps to not distract from the overall

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goal of the regulation which is to increase actual delivery of ZEVs and PHEVs towards meeting the 100 percent 2035 requirement. Staff is proposing that the manufacturer's annual proportional FCEV allowance is based on the individual state with the highest number of actual FCEVs delivered which is then used to calculate an "FCEV percentage share". In this way, manufacturers can earn a proportionally equivalent number of vehicle values in each state to help with compliance in those states that do not yet have adequate hydrogen infrastructure. The intent of these proportional FCEV values is to incentivize FCEV manufacturers who are producing highly capable ZEVs that are, as of today, higher cost and face unique infrastructure challenges that effectively preclude them from being deployed in many states but that have significant emission benefits and are suitable for uses for which a battery-electric vehicle may not be suited, such as in heavier vehicle classes and uses like towing. However, to ensure continued emission benefits, staff is also proposing that these proportional values may not be traded, banked, or pooled, as they are intended solely to offset the value of FCEVs towards compliance in a given year in other states that do not yet have sufficient hydrogen infrastructure to support widespread market penetration. These proposed changes are necessary to achieve the intended benefits of the regulation and aligns with the overall goal of achieving 100-percent ZEVs and PHEV sales by the 2035 model year.

40. Subsection (h)(1). Staff is proposing to replace the term "excess" with "surplus" when the term refers to summed ZEV requirement performance that exceeds the applicable annual ZEV requirement. This is necessary to avoid potential confusion given that "excess" is also used in this section to reference values earned in a given year above the allowance level for the particular value type and the values that comprise a surplus. Staff is also proposing to replace the term "deficit" with the term "shortfall," which is more accurate for the single model year reporting requirement discussed in this subsection.
41. Subsection (h)(2). Staff is proposing edits that are necessary to clarify this subsection and to improve readability but that do not change the overall intent or meaning of the proposal related to a manufacturer's ability to incur and carry forward a deficit. The additional language clarifies that in fulfilling a deficit, all allowances on the use of the various vehicle values apply. An example of the 3-year deficit timeframe has also been added to illustrate application of the regulation in response to questions from stakeholders.
42. Subsections (i)(1) and (i)(3)(D)2. Staff is proposing to modify how test groups are defined for ZEVs based on stakeholder comments. After considering comments, the term "powertrain deterioration" was unclear as to its intent and meaning as a characteristic for ZEVs that needed to be considered when grouping vehicle models together. In response, the term was replaced with more explicit language of "expected degradation in useable battery energy," which is necessary for clarity. This language is more directly related to the durability and warranty requirements of sections 1962.7 and 1962.8 and is similar to the test group

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designations with internal combustion engine vehicles today that require manufacturers to take into account the expected degradation and durability of the emission controls when grouping vehicles. Additionally, staff is proposing that manufacturers be required to document the model-specific electric range if multiple vehicle models with varying ranges are defined within the same test group, which is necessary to ensure CARB can confirm compliance with applicable requirements of this section.

43. Subsection (i)(3)(L). Staff proposes to replace the term “statement of compliance” with “attestation.” This is necessary to clarify that submittals under this provision must comply with the requirements of Code of Civil Procedure section 2015.5, which are included in the definition of “attestation” that staff has proposed to add in subsection (I). It also provides consistency in the requirements for statements submitted under this regulation, which is necessary to improve clarity, reduce burden that lacks commensurate benefit, and support compliance as submission of information that is not true and accurate harms CARB programs.
44. Subsection (i)(5). Staff is proposing more explicit language to clarify that while neighborhood electric vehicles (NEVs) have certification requirements that are defined in this regulation, NEVs will not be counted when determining the total sales of the manufacturer to define its annual ZEV requirement nor will NEVs be eligible to earn vehicle values or be used to meet any portion of a manufacturer’s ZEV requirement. This proposed change is necessary to improve clarity for regulated entities and support compliance.
45. Subsection (i)(6). Staff’s proposal that counts compliance on a per-vehicle basis and adopts minimum technical requirements and ZEV assurance measures is the right step toward increasing certainty about ZEV production volumes required by the regulation. However, stakeholders raised concerns about potential market demand for vehicles that do not meet the minimum required certified range of 200 miles, but otherwise fully meet the durability, warranty, charging, data standardization, and battery labeling requirements. Staff considered this request and is proposing to allow ZEVs that have a range of less than 200 miles under the testing and labeling requirements to be certified for sale in California. However, such vehicles may not be counted toward a manufacturer’s ZEV requirement as the minimum requirements are designed to increase the likelihood of success for ZEVs, including significant market demand for greater range, to meet the needs for all drivers and to ensure emission reductions are permanent. This proposed change is necessary to align with current practice, which increases manufacturer familiarity and likely improves compliance to ensure emissions are reduced as intended. The proposed change is also necessary to improve clarity and transparency for regulated entities and other stakeholders.
46. Subsection (i)(7). In conjunction with specifying in subsection (a)(2) that section 1962.4 is applicable to medium-duty ZEVs, staff is proposing to add this subsection (i)(7) to identify the requirements that medium-duty ZEVs that are

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included in satisfying a manufacturer's ACC II requirements must meet. Manufacturers that so include medium-duty ZEVs must count these medium-duty ZEVs when calculating their compliance obligation as well as count them toward meeting that obligation. For example, if a manufacturer elects to certify 100 medium-duty ZEVs to ACC II, those 100 vehicles will be counted as part of the manufacturer's total light-duty vehicle sales when determining its overall ACC II ZEV requirement in addition to those 100 vehicles earning ZEV vehicle values that can be used to meet the ACC II ZEV requirement. Manufacturers also cannot additionally earn credit under the Advanced Clean Truck (ACT) regulations for vehicles earning value under ACC II. Manufacturers also are required to meet the same minimum technical requirements in subsection 1962.4(d) that apply to light-duty vehicles, meet the requirements for earning and using vehicle values in subsections (e) through (g), be grouped into test groups separate from light-duty ZEVs, and meet the certification, reporting and disclosure requirements for light-duty ZEVs outlined in subsections 1962.4(i), (j), and (k). The provisions in this subsection are necessary to clearly state the requirements for manufacturers that include medium-duty ZEVs in satisfying ACC II obligations, better align with the proposed test procedures, and help ensure more robust compliance with ACC II. This reporting is necessary for the health, safety, and welfare of the people of the state because it helps ensure compliance in each model year and over the years a cumulative allowance is used.

47. Subsection (j)(1). The edits are necessary to make clear how the required information supports the projected vehicle production in the report, which supports both clarity and likely compliance.
48. Subsection (j)(2)(C)1. (second modification). Staff is proposing to add the inadvertently omitted phrase "clean mobility," which is necessary to clarify that the type of Executive Order number referenced is for a community-based clean mobility program and not another type of community-based program.
49. Subsection (j)(2)(C)2. Staff is proposing to add data parameters for manufacturers to report ZEVs and PHEVs sold to financial assistance program participants. The two data parameters to be reported are the vehicle identification number and the date of sale of the vehicle. These two parameters will enable CARB to cross-check with financial assistance program records, as these programs already qualify participants and have appropriate records to cross reference. Reporting this data is necessary to ensure compliance with the requirements associated with these vehicles to ensure that the intended benefits are being realized.
50. Subsections (j)(3)(B) and (j)(3)(D). Staff is proposing revised wording to more precisely describe how the usage of early compliance vehicle values must be reported to CARB in the manufacturer's end-of-model-year report, which is necessary for clarity and to support compliance. Since these values are earned and banked in model years prior to the start of the ACC II requirements, the language regarding banking, trading, and usage needs to be slightly different

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from the language regarding other vehicle values that are newly earned or banked once the ACC II requirements are in effect.

51. Subsections (j)(5) and (m)(1)-modification 1. Staff is proposing to require manufacturers to maintain records gathered to compile each report submitted to demonstrate compliance with the ACC II ZEV requirements for five years. This requirement is necessary to allow CARB to verify reported information as needed without requiring manufacturers to provide CARB additional detail in every report. Additionally, this proposed language is necessary to ensure manufacturers retain records that the Executive Officer may need to review to verify the accuracy of reported information and compliance with other requirements of this section. A five-year retention period will allow CARB's Executive Officer to review records underlying the reports during the time period which the Executive officer is most likely to have a need to verify reported information, without unduly burdening manufacturers with long-term record maintenance. Staff are proposing that manufacturers maintain the records in a form suitable for inspection, such as computer files, to support efficient Executive Officer review while providing manufacturers flexibility to use their preferred form of record maintenance. Staff also proposes to move the record review provision from subsection (m)(1), concerning enforcement, to this new subsection (j)(5), concerning record keeping requirements. It is more appropriate to include the record review provision alongside record keeping requirements than enforcement provisions because record keeping enables record review, while record review is not itself an enforcement action. A 30-day period for manufacturers to provide records upon Executive Officer request is necessary and reasonable to balance the manufacturer's need for time to compile and transmit the relevant records with CARB's need for reasonably timely review of these records when the Executive Officer identifies a need to verify the reported information. This, like the other reporting under the proposed regulations, is necessary for the health, safety, and welfare of the people of the state because it helps ensure and allows verification of compliance with the emission standards.
52. Subsection (k)(1). Staff's proposed modifications in this subsection are necessary to help implement the original intent of this subsection and improve clarity. Subsections (k)(1)(A) and (B) are intended as examples of the kind of public records subject to disclosure and not intended to exclude the fact that all other public records are also subject to disclosure unless protected by law. The proposed changes are also necessary to support compliance with CCR, title 17, section 91010.
53. Subsection (l): "attestation." Staff proposes to add a definition for the term "attestation" to establish the accurate meaning of the term as it applies to this regulation. The substance of the definition is necessary to ensure that attestations under this regulation comply with Code of Civil Procedure section 2015.5 and so that CARB receives accurate and truthful information as inaccurate and false information harms the regulatory program. The definition is identical to the

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definition proposed for addition to the California 2026 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," which also applies to title 13, CCR, section 1961.4.

54. Subsection (l): "excess values." Staff proposes to add a definition for the term "excess values," which refers both to vehicle values earned in excess of a listed allowance for the category of value (which cannot be counted towards the earning manufacturer's ZEV requirement performance in that model year) and vehicle values that constitute a surplus that the manufacturer has earned through its ZEV requirement performance exceeding the ZEV requirements in that model year. The definition is necessary because the term is used throughout Section 1962.4 to identify the usage, banking, trading, and pooling provisions for which manufacturers may use such values. Within this section, there is no difference between the permissible uses of excess values earned through exceeding a specified allowance or in exceeding the overall ZEV requirement and as such, the use of a common term for such values is appropriate and necessary.
55. Subsection (l): "Section 177 ZEV state." Staff proposes to add "or the District of Columbia" to the definition of "Section 177 ZEV state," which is necessary to accurately reflect the applicability of federal Clean Air Act section 177 (42 U.S.C. § 7507) to the federal district.
56. Subsection (l): "surplus." Staff proposes to add a definition for "surplus," which is necessary to clarify the term for ZEV requirement performance in a given year that exceeds the applicable annual ZEV requirement, which parallels the definition for "shortfall" included in the 45-day proposal.
57. Subsection (m)(1) – second modification. Staff proposes edited text concerning violations and penalties, which is necessary to improve grammatical clarity and more precisely identify the context of the potential violations and penalties. Staff are also proposing to revise the scope of potential violations and penalties for incorrect or omitted statements from "a record of vehicle sales" to "a submission to the Executive Officer," which is necessary for accuracy and clarity because section 1962.4 covers additional submissions to the Executive Officer that are not records of vehicle sales.
58. Subsection (m)(2)(C). Staff proposes to revise this subsection as necessary to be consistent with existing statutory and regulatory requirements for administrative hearings that provide substantive and procedural due process, and to promote clarity by removing superfluous provisions. Additionally, staff is proposing to change the deadline by which the Executive Officer has to notify the manufacturer from 60 days to 30 days, which is necessary to be consistent with existing regulatory requirements. Providing this consistency improves clarity and supports compliance.

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59. Subsection (m)(3). Based on comments received from manufacturers, staff is proposing to modify the last sentence of this subsection, which is necessary to make clear that manufacturers are subject to various statutory penalties depending on the nature and factual circumstances of a violation.
60. Subsection (n). Staff is proposing an electronic submittal method as opposed to a physical address previously proposed. Staff anticipates stakeholders prefer electronic submittal for convenience. It is also necessary for congruency, as electronic submittal is the current method by which manufacturers submit data and documentation.
61. Note. Authority and Reference sections were added to reflect the proposed enforcement and penalty provisions that are authorized by, and are implementing and making specific, the cited sections: Section 38580, 43023, and 43154 of the California Health and Safety Code. Authority sections were also added to reflect electronic submittal: Civil Code sections 1633.7 and 1633.8.