

Title 13. California Air Resources Board

Notice of Public Hearing to Consider Proposed Amendments to the Advanced Clean Trucks Regulation and the Zero-Emission Powertrain Certification Test Procedure

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider proposed amendments to the Advanced Clean Trucks (ACT) regulation and the Zero-Emission Powertrain Certification (ZEP Cert) test procedure.

Date: May 23, 2024

Time: 9:00 A.M.

In-Person Location:

California Air Resources Board
Byron Sher Auditorium
1001 I Street, Sacramento, California 95814

Remote Option:

Zoom

This public meeting may continue at 9:00 a.m., on May 24, 2024. Please consult the public agenda, which will be posted ten days before the May 23, 2024, Board Meeting, for important details, including the day on which this item will be considered and how the public can participate via Zoom if they choose to be remote.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing during the hearing and may provide comments by postal mail or electronic submittal before the hearing. The public comment period for this regulatory action will begin on March 29, 2024. To be considered by the Board, written comments **must be submitted by May 13, 2024**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. Comments submitted must be addressed to one of the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

[Electronic submittal:](https://www.arb.ca.gov/lispub/comm/bclist.php) <https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 7920.000 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.

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 California Health and Safety Code, sections 38501, 38505, 38510, 38560, 38566, 38580, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 40000, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, and 43806; and California Vehicle Code section 28114.

This action is proposed to implement, interpret, and make specific California Health and Safety Code, sections 38501, 38505, 38510, 38560, 38580, 39000, 39002, 39003, 39010, 39017, 39003, 39500, 39600, 39601, 39610, 39650, 39655, 39657, 39667, 39701, 40000, 43000, 43000.5, 43009, 43009.5, 43013, 43016, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213, and 43806; and California Vehicle Code section 28114.

Informative Digest of Proposed Action and Policy Statement Overview (Gov. Code, § 11346.5, subd. (a)(3))

Sections Affected:

Proposed amendments to California Code of Regulations, title 13, sections 1956.8, 1963, 1963.1, 1963.2, 1963.3, 1963.4, and 1963.5, and proposed adoption of new section 1963.6.

Documents Incorporated by Reference (Cal. Code Regs., title 1, § 20, subd. (c)(3)):

The following would be incorporated in the regulation by reference as specified by the following sections:

- Title 40, Code of Federal Regulations section 1037.801, last amended by the United States Environmental Protection Agency (U.S. EPA) on January 24, 2023.

Background and Effect of the Proposed Regulatory Action:

In January 2021, CARB adopted the ACT regulation as part of California's comprehensive strategy to reduce harmful emissions from medium- and heavy-duty vehicles to the greatest degree feasible. Achieving California's long-term air quality, climate, and public health goals will require a transition from the conventional combustion technologies to zero-emission everywhere feasible and near-zero-emission powered by clean, low-carbon renewable fuels everywhere else. Promoting the development and use of zero-emission trucks will contribute to

the goals set by the Governor's Executive Order N-79-20 and the Sustainable Freight Action Plan, and will help achieve emission reductions as outlined in the State Implementation Plan, Senate Bill (SB) 350 (de León, Chapter 547, Statutes of 2015), Assembly Bill (AB) 32 (Núñez, Chapter 488, Statutes of 2006), and SB 32 (Pavley, Chapter 249, Statutes of 2016), and AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022). This effort is part of a broader strategy to increase clean, affordable transportation options such as zero-emission technologies, innovative methods to improve freight activity, and efficiency of transportation systems in California.

In July 2019, CARB adopted the ZEP Cert test procedure which established new, alternative certification procedures for heavy-duty battery-electric and fuel-cell vehicles and the zero-emission powertrains they use. ZEP Cert establishes a process that can be used to provide additional transparency, consistency, and stability in heavy-duty zero-emission market segments targeted by CARB's technology-forcing regulatory measures or incentives geared to deploying more-commercialized zero-emission vehicles. The ACT regulation requires manufacturers to utilize ZEP Cert starting with the 2024 model year for heavy-duty and incomplete medium-duty ZEVs in order to earn ZEV credits. With the proposed amendment, ZEP Cert would become an optional certification pathway for complete medium-duty ZEVs.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments to the ACT regulation include items that can be adopted in 2024 to honor commitments made by CARB staff in the Clean Truck Partnership. The changes include increasing the deficit makeup period and clarifying that compliance determination and sales reporting requirements are both defined when vehicles are produced and delivered for sale in California. Additionally, the proposed amendments would make minor adjustments to address issues that have arisen through implementation and will ensure closer alignment with the regulation's original intent. These amendments are generally minor administrative changes that have minimal cost impacts and no significant emissions impact. Additionally, the proposed amendment to ZEP Cert aims to provide greater flexibility for manufacturers to certify complete medium-duty ZEVs.

Summary of the Proposed Amendments

The proposed amendments to the ACT regulation include: clarifying that compliance determination and sales reporting requirements are both defined when vehicles are produced and delivered for sale in California, increasing the deficit makeup period, aligning language with the 100% ZEV sales requirements for 2036 and subsequent model years, modifying the manufacturer definition as well as adding a definition for secondary vehicle manufacturer, establishing that certifications that meet the requirements of title 13, California Code of Regulations section 1962.2 satisfy the zero-emission powertrain certification requirement of the ACT regulation, aligning language with the proposed amendment to ZEP Cert to extend its applicability to complete medium-duty ZEVs, aligning language about preventing double counting of ZEV credits under both the Advanced Clean Cars (ACC) II regulations and ACT, identifying acceptable documentation for vehicle tracking, and adjustments to various reporting requirements with added coinciding definitions.

Comparable Federal Regulations:

There are no federal requirements for manufacturers to sell ZEVs with a gross vehicle weight rating greater than 8,500 lb.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

There are no inconsistencies or incompatibilities with existing state regulations. Instead, the proposed amendments incorporate references to the ACC II regulations in section 1963.2(i) to protect against manufacturers double-counting credits from selling a medium-duty ZEV into California under both the ACT regulation and the ACC II regulations for the 2024 and 2025 model years. Additionally, language was added to section 1963.2(i) to establish that, beginning with the 2026 model year, medium-duty ZEVs produced and delivered for sale in California that are counted towards the ACC II regulations will not be counted towards the ZEV deficit generated under the ACT regulation.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

Disclosure Regarding the Proposed Regulation

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(6)):

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

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

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made the 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.

Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

- (A) The creation or elimination of jobs within the State of California.

The proposed amendments are expected to result in minor increases and decreases in work performed which can be absorbed by the regulated manufacturers. As a result, no jobs are expected to be created or eliminated by these amendments.

- (B) The creation of new business or the elimination of existing businesses within the State of California.

No new jobs will be created or eliminated as a result of these proposed amendments, therefore new businesses will not be created, nor eliminated.

- (C) The expansion of businesses currently doing business within the State of California.

The proposed amendments are expected to have minimal impact on jobs in regulated businesses and work will likely be absorbed within existing resources.

- (D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These proposed amendments are generally minor, administrative changes that have minimal cost impacts and no emissions impact and no impact to health and welfare of California residents, worker safety, and the state's environment.

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 the 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 Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The primary objective of the proposed regulatory action is to honor commitments made by CARB staff in the Clean Truck Partnership in 2024, which includes proposing regulatory amendments that would increase the deficit makeup period and clarify that compliance determination and sales reporting requirements are both defined when vehicles are produced and delivered for sale in California.

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 section 11346.5, subdivision (a)(3) discussion on page 2.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business (Cal. Code Regs., title 1, § 4, subs. (a) and (b)):

The Executive Officer has determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses as none of the manufacturers subject to the ACT regulation meet the AB 1033 (Garcia, Chapter 346, Statutes of 2016) definition of a small business.

Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):

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, 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. As explained in Chapter IX of the ISOR, Evaluation of Regulatory Alternatives, the proposed amendments are the most effective and least burdensome means of achieving the purposes of the regulation.

State Implementation Plan Revision

If adopted by CARB, CARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval if it is necessary to include it as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision with no significant emissions impacts because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

Environmental Analysis

When the original regulation was proposed in 2020, CARB prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code, section 21080.5). The EA, included in Appendix D of the ISOR entitled *Final Environmental Analysis for the Proposed Advanced Clean Trucks Regulation*, dated June 23, 2020, determined the ACT regulation could result in: beneficial impacts to energy demand, and greenhouse gases; less than significant impacts, or no impacts, to air quality, energy demand, greenhouse gases, land use planning, mineral resources, population and housing, public service, and recreation; and potentially significant adverse impacts to aesthetics, agricultural and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use planning, mineral resources, noise, transportation and traffic, and utilities and service systems. Staff has determined that no additional environmental review is required for the current proposed amendments because there are no changes that involve new significant environmental effects or a substantial increase in severity of previously identified significant effects previously identified in the prior 2020 EA. The basis for reaching this conclusion is provided in section VI of the ISOR.

Special Accommodation Request

Consistent with California Government Code section 7296.2, special accommodation or language needs may 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; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- 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 cotb@arb.ca.gov o (916) 322-5594 lo mas 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.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Craig Duehring, Manager In-Use Control Measures Section, at (279) 208-7369 or (designated back-up contact) Paul Arneja, Air Resources Engineer, at (279) 208-7342.

Availability of Documents

CARB staff has prepared a Staff Report, or the ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed amendments. The report is entitled: Proposed Amendments to the Advanced Clean Trucks Regulation.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on CARB's website listed below, on March 26, 2024. Please contact Bradley Bechtold, Regulations Coordinator, at Bradley.Bechtold@arb.ca.gov or (279) 208-7266 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (279) 208-7266. The Board staff has compiled a record for this proposed regulatory action, which includes all the information upon which the proposed amendments are based. This material is available for inspection upon request to the contact persons.

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 take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The

Board may also approve for adoption 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. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption. The public may request a copy of the modified regulatory text, if applicable, from CARB's Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

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 CARB's website listed below.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for the proposed amendments at <https://ww2.arb.ca.gov/rulemaking/2024/advancedcleantrucks>

California Air Resources Board



Steven S. Cliff, Ph.D.
Executive Officer

Date: January 16, 2024

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](http://www.arb.ca.gov) (www.arb.ca.gov).