

Appendix A.1

Final Regulation Order

Section 100 Changes Title 13

Update Public Records Act Citations

[Note: This version of the proposed amendments to Title 13 California Code of Regulations (CCR) complies with Government Code section 11346.2, subdivision (a)(3). The existing, original regulatory language currently adopted into the CCR is shown in “normal type.” The proposed amendments are shown underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text. Subsections for which no changes are proposed are indicated with “* * * *.” Vertical lines in the left margins are to flag where changes are proposed for ease of reference and are not part of the proposed amendments. The proposed amendments are being presented in two versions. For ease of readability, and to review the proposed amendments in an accessible format that can toggle between amendments in strikeout/underline and a “clean” version with amendments incorporated into the regulatory text, please refer to the Word version of this Regulation Order.]

Title 13. Motor Vehicles

Division 3 – Air Resources Board

Section 1962.7. In-Use Compliance, Corrective Action and Recall Protocols for 2026 and Subsequent Model Year Zero-Emission and Plug-in Hybrid Electric Passenger Cars and Light-Duty Trucks.

Section 1968.5. Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines.

Section 1971.5. Enforcement of Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model-Year Heavy-Duty Engines.

Section 2293.2. Definitions.

Section 2293.5. Phase-In Requirements.

Section 2360.4. Reporting for Electric Vehicle Service Providers.

Regulation Order

Title 13, California Code of Regulations

Amend Sections 1962.7, 1968.5, 1971.5, 2293.2, 2293.5, and 2360.4, of title 13, California Code of Regulations, to read as follows:

§ 1962.7. In-Use Compliance, Corrective Action and Recall Protocols for 2026 and Subsequent Model Year Zero-Emission and Plug-in Hybrid Electric Passenger Cars and Light-Duty Trucks.

* * * *

- (e) *Enforcement Testing for Zero-Emission Vehicles and Plug-in Hybrid Electric Vehicles.* Zero-emission vehicles and plug-in hybrid electric vehicles are subject to periodic evaluation by CARB to verify compliance as follows:

* * * *

- (6) Executive Officer Notification to the Manufacturer Regarding Determination of Nonconformance.

- (A) *Notify in Writing.* Upon making a determination of nonconformance under subsection (e)(5) above, the Executive Officer shall notify the manufacturer in writing.

- (B) *Information Included in Notice of Determination of Nonconformance.* The Executive Officer shall include in the notice:

1. a description of each group or set of vehicles in the motor vehicle class covered by the determination;
2. the factual basis for the determination, including a summary of the test results relied upon for the determination;
3. a statement that the Executive Officer shall provide to the manufacturer, within 30 days upon request, all records material to the Executive Officer's determination and not otherwise subject to an exemption from disclosure under the California Public Records Act, Government Code section ~~6250~~7920.000, et seq.;

* * * *

Note: Authority cited: Sections 38510, 38560, 38580, 39002, 39003, 39039, 39601, 39602.5, 43013, 43016, 43018, 43018.5, 43023, 43101, 43106, 43154, 43211, 43212

and 43600, Health and Safety Code. Reference: Sections 38580, 39601, 39602.5, 43013, 43016, 43018, 43018.5, 43023, 43101, 43105, 43106, 43154, 43211, 43212 and 43600, Health and Safety Code; and Sections 1633.7 and 1633.8, Civil Code.

§ 1968.5. Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines.

* * * *

(b) *Testing Procedures*

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(7) *Executive Officer Notification to the Manufacturer Regarding Determination of Nonconformance.*

- (A) Upon making the determination of nonconformance in section (b)(6) above, the Executive Officer shall notify the manufacturer in writing.
- (B) The Executive Officer shall include in the notice:
 - (i) a description of each group or set of vehicles in the motor vehicle class covered by the determination;
 - (ii) the factual basis for the determination, including a summary of the test results relied upon for the determination;
 - (iii) a statement that the Executive Officer shall provide to the manufacturer, upon request and consistent with the California Public Records Act, Government Code section 62507920.000, et seq., all records material to the Executive Officer's determination;

* * * *

Note: Authority cited: Sections 38501, 38510, 39010, 39600, 39601, 39602.5, 43000.5, 43013, 43016, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211 and 43212, Health and Safety Code; ~~and Engine Manufacturers Association v. California Air Resources Board (2014) 231 Cal.App.4th 1022.~~ Reference: Sections 38501, 38505, 38510, 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 39602.5, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212, Health and Safety Code; and Engine

Manufacturers Association v. California Air Resources Board (2014) 231 Cal.App.4th 1022.

§ 1971.5. Enforcement of Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model-Year Heavy-Duty Engines.

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(b) *Testing Procedures for ARB-Conducted Testing.*

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(7) *Executive Officer Notification to the Manufacturer Regarding Determination of Nonconformance.*

- (A) Upon making the determination of nonconformance in section (b)(6) above, the Executive Officer shall notify the manufacturer in writing.
- (B) The Executive Officer shall include in the notice:
 - (i) a description of each group or set of engines in the engine class covered by the determination;
 - (ii) the factual basis for the determination, including a summary of the test results relied upon for the determination;
 - (iii) a statement that the Executive Officer shall provide to the manufacturer, upon request and consistent with the California Public Records Act, Government Code section 62507920.000, et seq., all records material to the Executive Officer's determination;

* * * *

Note: Authority cited: Sections 38501, 38510, 39010, 39600, 39601, 39602.5, 43000.5, 43013, 43016, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211 and 43212, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 39602.5, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212, Health and Safety Code.

§ 2293.2. Definitions.

- (a) For the purposes of this subarticle, the definitions in Health and Safety Code sections 39010 through 39060 shall apply, except as otherwise specified in this subarticle. The following definitions shall also apply to this subarticle:

* * * *

- (27) "Trade Secret" has the same meaning as defined in California Government Code section ~~6254.77~~924.510.

* * * *

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and ~~Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975).~~ Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018, 43101, 43830.8 and 43865, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975).

§ 2293.5. Phase-In Requirements.

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- (a) Stage 1: Pilot Program.

[NOTE: The purpose of this stage is to allow limited, small fleet use of innovative fuels while requiring screening tests and assessments to quickly determine whether there will be unreasonable potential impacts on air quality, the environment and vehicular performance. Such data will help inform more extensive testing and analysis to be conducted in Stage 2. This Stage 1 is modeled after the existing ARB regulation that provides limited, fuel test program exemptions under 13 CCR 2259.]

- (1) Stage 1 Application.

A person seeking a Stage 1 Executive Order (EO) for an ADF must submit an application to the Executive Officer that includes all the following information:

* * * *

- (S) It is the responsibility of the applicant to identify any specific portion of the information submitted above as trade secret. Any such trade secret information identified by the applicant shall be treated

pursuant to 17 CCR 91000-91022 and the California Public Records Act (Government Code section ~~6250~~7920.000, et seq.).

* * * *

(b) Stage 2: Development of Fuel Specification.

[NOTE: The purpose of this stage is to allow limited but expanded fleet use of an ADF that has successfully undergone the Stage 1 pilot program. Stage 2 candidate ADFs undergo additional emissions and performance testing to better characterize potential impacts on air quality, the environment and vehicular performance. This testing and assessment will be conducted pursuant to a formal multimedia evaluation leading to the development of a fuel specification, as appropriate. Further, the multimedia evaluation will be the basis for determining whether the candidate ADF has potential adverse emissions impacts. The determination of potential adverse emissions impacts determines whether the candidate ADF may proceed to Stage 3A or Stage 3B.]

A person who has successfully completed a Stage 1 pilot program for a candidate ADF under subsection (a) may apply for a Stage 2 EO for that candidate ADF.

(1) Stage 2 Application.

An applicant for Stage 2 must submit an application to the Executive Officer that includes all the following information:

* * * *

- (H) It is the responsibility of the applicant to identify any specific portion of the information submitted above as trade secret. Any such trade secret information identified by the applicant shall be treated pursuant to 17 CCR 91000-91022 and the California Public Records Act (Government Code section ~~6250~~7920.000, et seq.).

* * * *

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and ~~Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975).~~ Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018, 43026, 43101, 43830.8, and 43865, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975).

§ 2360.4. Reporting for Electric Vehicle Service Providers.

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- (l) Confidential business information. If the EVSP believes any information required to be reported under this section is confidential business information, the EVSP shall prominently label the specific information considered to be confidential, and shall include an explanation for why the EVSP believes the identified information is confidential. All documents (including spreadsheets and other items not in a standard document format) designated as containing confidential business information also must prominently display the phrase “Contains Confidential Business Information” above the main document title and in a running header. All information reported and not identified as confidential business information is subject to public disclosure pursuant to California Code of Regulations, title 17, sections 91000 through 91022, and the California Public Records Act (Gov. Code, § ~~6250~~7920.000, et seq.). The Board may also disclose information claimed by the applicant to be confidential as required by law.

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Note: Authority cited: Sections 39600, 39601 and 44268.2, Health and Safety Code.
Reference: Sections 44268 and 44268.2, Health and Safety Code.