



July 26, 2024

[SUBMITTED VIA WEB PORTAL](#)

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Advanced Clean Cars II Amendments

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) welcomes the opportunity to comment on the California Air Resources Board (CARB) Second Public Workshop held June 26, 2024, regarding amendments to Advanced Clean Cars II regulations (ACC II). NADA commends CARB for reviewing ACC II in light of the recently finalized U.S Environmental Protection Agency's (EPA's) Multi-Pollutant Emissions Standards and urges CARB to extend the review and amendment process to the Zero-Emissions Vehicles (ZEV) program to fully align the regulatory regimes.

I. Introduction

The National Automobile Dealers Association (NADA) represents over 16,000 franchised automobile and truck dealerships that sell new and used motor vehicles and engage in service, repair, and parts sales. Together, NADA members employ more than 1.2 million people nationwide, with the majority qualifying small businesses as defined by the Small Business Administration.

NADA has long been supportive of continuous improvements in vehicle emissions technology that are both affordable and reliable, and which benefit new-vehicle purchasers across America. New car dealers in the United States are actively contributing to the transition toward an electrified vehicle future. Dealers are investing more than \$10 billion, in inventory, essential training, equipment, facilities, and tools to facilitate the successful sale and leasing of zero emission vehicles (ZEVs), including battery electric vehicles (BEVs), plug-in hybrid electric vehicles (PHEVs), and fuel cell electric vehicles (FCEVs). These investments also include establishing a service network critical for the mass adoption of ZEVs, which are now becoming increasingly available in dealer showrooms.

On August 22, 2022, CARB finalized Advanced Clean Cars (ACC) II: new regulations applicable to 2026 and subsequent model year Californian light- and medium-duty vehicles, effective November 30, 2022.¹ CARB's ACC II program

¹ CARB has applied for a waiver with the EPA under section 209(b) of the Clean Air Act (CAA) for ACC II, which is currently pending. See [Fed. Reg. 88 at 88908](#) (Dec. 26, 2023). NADA incorporates

includes a ZEV program that requires vehicle manufacturers to sell increasing percentages of ZEVs beginning with MY 2026, cumulating in a ZEV mandate of 100 percent for MY 2035. Manufacturers can meet up to 20 percent of their sales requirements using PHEVs. ACC II also includes the LEV IV program governing light-duty criteria pollutant standards, greenhouse gas (GHG) exhaust standards, and other provisions related to charging, labelling, and test procedures, among others. While the ACC II amendments contemplated during the Second Public Workshop include amendments to the LEV and GHG standards, and other modifications, amendments to the ZEV mandates are specifically excluded from the process.

In addition to CARB's regulations, manufacturers are subject to federal regulations. In spring 2024, Federal regulators finalized two significant rulemakings affecting the composition of the 2027-2032 new-car fleet: (i) the Environmental Protection Agency (EPA) Multi-Pollutant Emissions Standards for Model Years (MY) 2027 and Later Light-Duty and Medium-Duty Vehicles,² and (ii) the NHTSA Corporate Average Fuel Economy (CAFE) standards.³ Together, these federal rules require dramatic reductions in carbon dioxide emissions and increases in the average fuel efficiency of light duty and medium duty vehicles for MYs 2027-2032.

NADA urges CARB to consider the following factors when amending ACC II. First, CARB should consider the relationship between ACC II and federal regulations and should consider consolidating regulations and regulators related to tailpipe emissions in a unified program or adopt a "deemed to comply" provision. Second, any amendments to ACC II that address LEV and GHG standards for internal combustion engine (ICE) vehicles but do not address the ZEV program will lack coherency and exacerbate the problem of inconsistent standards. Third, EPA should consider the significant barriers to widespread EV adoption mandated by ACC II caused by insufficient charging infrastructure and EV affordability.

herein its comment to CARB's waiver application, available at:

<https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0292-0052> (visited Jul. 24, 2024).

² U.S. EPA, Multi-Pollutant Emissions Standards for Model Years (MY) 2027 and Later Light-Duty and Medium-Duty Vehicles, [89 Fed. Reg. 27842](#) (April 18, 2024) (EPA GHG Rule).

³ NHTSA, Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years (MY) 2027-2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for MY 2030-2035, [89 Fed. Reg. 52540](#) (Jun. 24, 2024).

II. One National Standard

NADA supports harmonized fuel economy and GHG emissions standards that are technologically feasible and economically practicable, and that will result in cars and trucks that are attractive and affordable to prospective new vehicle consumers. The regulation of motor vehicle fuel economy and tailpipe GHG emissions by California is largely duplicative, as two federal agencies and a state agency independently regulating essentially the same thing raises government inefficiency and waste concerns, results in unnecessary regulatory burdens and complexities, and inevitably leads to higher vehicle costs for households and businesses.

When EPA regulated tailpipe GHG emissions in 2012, it did so in a joint rule with NHTSA. EPA and NHTSA maintained this practice until 2021, when NHTSA and EPA engaged in separate rulemakings for MY 2024 to MY 2026 (NHTSA) and 2023 and Later Model Year Standards (EPA), and again for MY2027 to MY 2032. The Department of Energy also plays a role by setting a Petroleum Equivalent Factor (PEF).⁴ And these regulations are joined by ACC II rules (and their adoption by Clean Air Act section 177 states). Consequently, vehicle manufacturers, suppliers, dealers, and the motoring public are subject to at least *four* regulatory regimes with misaligned standards of varying stringencies, compliance flexibilities, and credit trading mechanisms. This regulatory morass increases compliance costs and ambiguity and does not lend itself to overall sound public policy.

a. Inconsistent Standards

NADA urges CARB to consider amendments to its ZEV program so it can review its regulatory regime holistically and harmonize ACC II with EPA's GHG regulation. NADA commends CARB's proposal to amend its LEV program, where possible, to converge standards and procedures with those of the EPA. CARB, however, makes a conceptual error by separating consideration of regulations affecting the ICE fleet only without incorporating the ZEV program because the total fleet composition and resulting reductions in emissions will be dictated by the two programs in tandem.

The final EPA GHG rule for MY 2027 to MY 2032 creates a 50-state regulatory regime that aggressively forces the adoption of BEVs. The EPA rule requires nationwide BEV adoption of approximately 25 percent in 2027 and up to 56 percent by 2032 (depending on the pathway), while BEVs constitute only 6.9 percent of new vehicle sales in 2024 year to date. The Alliance for Automotive Innovation, which represents franchise vehicle manufactures, described the EPA regulation when it was finalized in March as a "stretch goal."⁵ Given the slow pace of charging infrastructure, the high price of EVs, and the resulting stagnation in consumer demand, the outlook since the rule was finalized in March has not become any rosier. CARB's ZEV mandate will create a significant divergence between the

⁴ Fed. Reg. 88 at 21525-21540.

⁵ <https://www.autosinnovate.org/posts/press-release/epa-greenhouse-gas-emissions-and-criteria-pollutant-rules-statement> (visited Jul. 24, 2024).

already stringent EPA standards and requirements in California and the section 177 states, as illustrated in the chart below.⁶

		2027	2028	2029	2030	2031	2032
EPA	ICE+HEV	68%	63%	54%	47%	38%	32%
	PHEV	6%	6%	8%	9%	11%	13%
	BEV	26%	31%	39%	44%	51%	56%
CARB	ICE+HEV	57%	49%	41%	32%	24%	18%
	PHEV	9%	10%	12%	14%	15%	16%
	BEV	34%	41%	47%	54%	61%	66%
	ZEV	43%	51%	59%	68%	76%	82%

EPA’s rule alone will require that OEMs make significant investments in BEVs and BEV technology, decrease the number of ICE vehicles sold, and decrease the GHG emissions from the remaining ICE fleet. The ZEV program, which cumulates at 100 percent ZEV vehicles by 2035, will further reduce the number of ICE vehicles sold in California and in CARB states.

For this reason, proposed changes to ACC II GHG standards and ICE-only fleet averages cannot be considered separately from CARB’s ZEV mandate. Simply put, CARB’s ZEV mandate fully addresses any necessary GHG regulations as it moves the vehicle fleet towards 100 percent ZEVs in 2035. Moreover, the EPA’s GHG regulations require significant ICE vehicle improvements in all 50 states, acting as a regulatory backstop nationwide. Manufactures will also need to invest, and are investing, heavily in BEV technology to meet aggressive EPA GHG regulations and CARB ZEV mandates—regulations that require different ICE technologies in California than required by the EPA will divert investment away from BEVs.

CARB also errs in raising concerns of ICE-engine “backsliding” without reference to its own ZEV mandate and federal regulations. EPA’s GHG rule combined with CARB’s ZEV mandate require OEMs to make emissions reductions across their entire fleet, and the total regulatory regime creates an incentive for manufactures to produce as efficient ICE engines as possible. There is no realistic scenario where OEMs are incentivized to produce less efficient ICE vehicles. Moreover, the important metric for GHG emissions is total fleet emissions—looking at tradeoffs involving individual vehicles in the context of fleet-wide emissions requirements is incoherent, and different manufacturers will use different compliance strategies to

⁶ EPA GHG Rule at 27856, Table 3.

meet the stringent CARB and EPA requirements. For these reasons, NADA urges CARB to align its standards for ICE vehicles with EPA's GHG regulations.^{7 8}

b. Section 177 States

NADA recommends that CARB consider amendments to the ACC II ZEV mandate to address challenges related to state-adoption under section 177 of the CAA. Currently, eleven states have explicitly adopted the ACC II regulations under that section. As manufacturers strive to comply with mandates on a state-by-state level, they will allocate inventory in a way that will prioritize compliance at the expense of customer choice, affordability, and fleet turnover.

Although the states that adopt ACC II under section 177 will be subject to the same CARB requirements as each other, those mandates will take effect in very different conditions. For example, 25 percent of new vehicles sold in California were ZEVs in the first quarter of 2024, while only 11 percent were in Vermont. Nonetheless, manufacturers must meet the 35 percent ZEV requirement for MY2026 in both states. These are two very different hills to climb.⁹ New Mexico is an even more stark example, as only 5 percent of sales were ZEVs in the quarter of 2024, while OEMs must meet a 43 percent ZEV mandate under ACC II for 2027. In addition to federal regulations, ACC II forces manufacturers to address different market conditions in every CARB state (in addition to the non-CARB states). Simply put, California has an outsized role in setting standards that affect the whole nation.

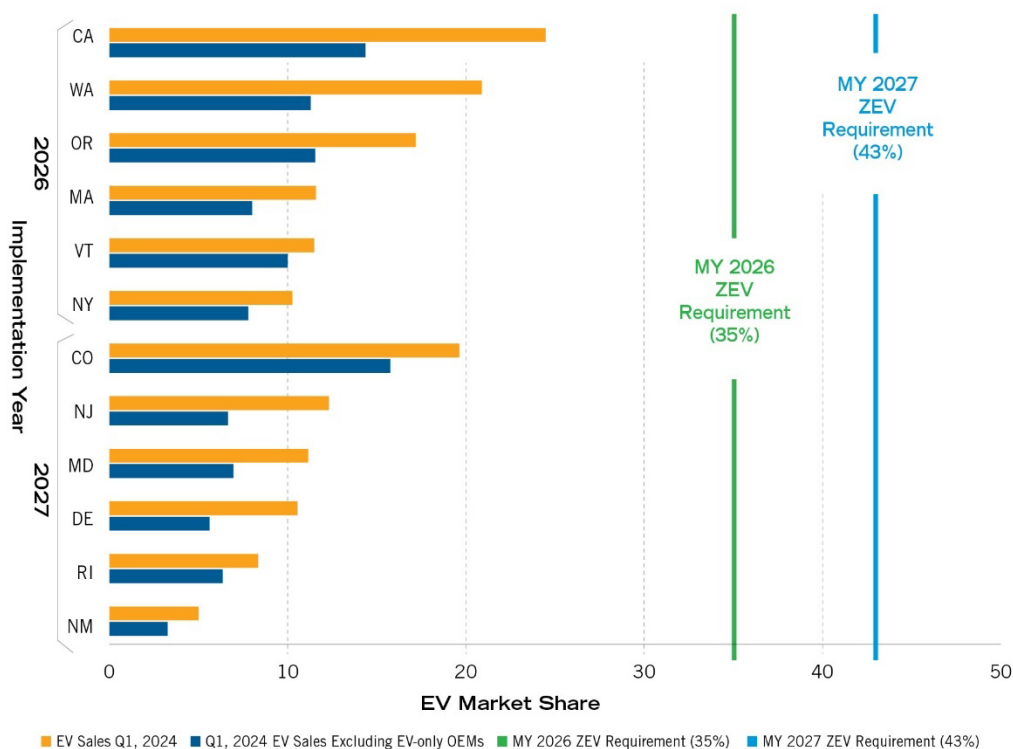
CARB should also be mindful of the extreme difficulty manufacturers will have meeting MY2026 and MY2027 targets, and the high risk that, in the very near future, that some section 177 states will opt-out or postpone adoption of ACC II. Reasonable amendments to the ZEV mandates that more closely align with EPA's GHG rule will mitigate that risk and improve overall environmental quality.

⁷ To the extent CARB chooses to amend GHG and ICE-only fleet averages, NADA supports the Alliance for Automotive Innovation's recommendations. NADA adds that the exclusion of EV operation of PHEVs from the GHG fleet average obviously overstates emissions from PHEVs and urges CARB to adopt the utility factor assumptions in the EPA final GHG rule.

⁸ NADA echoes the Alliance for Automotive Innovation's recommendation that CARB take a cautious approach to Environmental Performance labeling, and that CARB and EPA should work with other stakeholders, including NADA, to develop a new 50-state label requirement that can be implemented on the Monroney label.

⁹ And California, which is in the best position among CARB states, is experiencing significant headwinds in EV sales. *See Statewide EV sales growth sees a drop. Tesla, once a California darling, hit hard* (<https://www.latimes.com/environment/story/2024-07-18/california-ev-sales-decline-again>) (visited Jul. 24, 2024), and *California EV sales are falling. Is it just temporary, or a threat to state climate goals?* (<https://www.latimes.com/environment/story/2024-02-15/falling-ev-sales-raise-worries-over-california-climate-plan>) (visited Feb. 23, 2024).

EV Sales by State vs. 2026-2027 ZEV Mandate Q1, 2024



One OEM has already been forced to allocate electric vehicles to CARB states and withhold ICE vehicles from non-CARB states to meet existing CARB regulations.¹⁰ In the summer of 2023, a major manufacturer confirmed it was allocating only electrified versions to dealers in the 14 CARB-compliant states to comply with CARB GHG regulations. In many cases, consumers in major metropolitan areas of non-CARB states were denied access to EVs, where there was demand, while CARB states received EVs, often where there was minimal demand. In many cases, dealers exchanged vehicles across state lines to redress this market distortion, which increased the cost of vehicles. While this problem was mitigated with an agreement with CARB in 2024,¹¹ it is likely this problem will recur and may affect more manufacturers.

Under ACC II, these allocation distortions are likely to become more acute, as OEMs employ “mix shifting” as a compliance strategy, which will result in an

¹⁰ Stellantis Says California’s to Blame for Making It Harder to Buy an ICE Jeep, The Drive, Dec. 7, 2023, <https://www.thedrive.com/news/stellantis-says-californias-to-blame-for-making-it-harder-to-buy-an-ice-jeep> (visited Feb. 22, 2024).

¹¹ Stellantis Emissions Deal with California Adds Clarity for Dealers, Automotive News, Mar. 22, 2024, <https://www.autonews.com/regulation-safety/stellantis-california-emissions-deal-adds-clarity-car-dealers> (visited Jul. 24, 2024)



oversupply of EVs in section 177 states and an undersupply of EVs in the other states.. As stricter ZEV mandates come into effect, allocation issues between CARB and non-CARB states will affect more manufacturers, and the problem of increased cost and reduced consumer choice will become more widespread. NADA urges CARB to consider the market distortions created by the regulatory disconnect between ACC II's ZEV mandates and EPA's regulations.

III. Consumer Demand

CARB's ACC II ZEV mandate is not aligned with a reasonable expectation regarding consumer demand for EVs. The most significant barriers to mass adoption of EVs are lack of affordability and insufficient charging infrastructure. As explained below, EVs are still significantly more expensive than the average ICE vehicle, and most US families are unable to purchase a new vehicle, much less an EV. Moreover, the pace of investment in charging infrastructure is woefully inadequate to support the demand required to meet the ACC II mandates, particularly in the section 177 states.

The ability to purchase or lease new vehicles depends on financial capacity (typically, creditworthiness) and, especially for new technology vehicles, the availability of convenient and cost-effective refueling options.

Crucially, most American households find the cost of new vehicles out of reach. As shown in the chart provided, when considering the average cost of new vehicles alongside realistic household budget assumptions, only one-third of U.S. households have the financial capability to purchase an average-priced new vehicle in the current market. This means that, inversely, two-thirds of American consumers are unable to afford an average light-duty vehicle. The situation worsens with electric vehicles (EVs), where nearly three-quarters of households find themselves priced out of the new EV market.

Type of Vehicle	June 2024	
	 KBB New Vehicle Average Transaction Price	 KBB New EV Average Transaction Price
Car Price	\$56,371	\$48,644
Average Interest Rate	7.01%	7.01%
Average Loan Term (months)	68	68
20% Down Payment	\$11,274	\$9,729
Loan Amount	\$45,097	\$38,915
Monthly Payment	\$806	\$695
Monthly Take Home Pay Necessary for 10% of Take Home Income	\$8,055	\$6,951
Annual Take Home Pay Necessary	\$96,662	\$83,412
Assume Americans Pay 27% of Their Income in Taxes to Derive Gross Income	\$132,414	\$114,263
Share of U.S. Households That Can Afford	26.23%	33.20%
Number of Households that Can Afford	34,470	43,627
Total Households	131,400	131,400

Sources: U.S. Census Bureau, NADA, Kelly Blue

Additionally, cash transactions account for less than 10 percent of new vehicle sales, indicating that more than 90 percent of buyers need financing to purchase a new vehicle.¹² The current high interest rates exacerbate the issue of affordability, pushing many consumers out of the market.¹³ Consequently, Americans are keeping their current vehicles for longer periods, resulting in an average vehicle age of 12.6 years on the road.¹⁴ And dealerships are still experiencing a decline in new vehicle sales, with approximately 15.5 million units sold in 2023 and 15.7 million unit pace for 2024, which is a 10 percent decrease from the 17.2 million vehicles sold in 2018.¹⁵

The problem of lagging consumer demand is also driven by the slow pace of charging infrastructure development. There are about 178,207 publicly accessible charging ports in operation today,¹⁶ far less than what the Edison Electric Institute

¹² 87 Fed. Reg. at 42042.

¹³ See Elevated Auto Loan Rates Hinder New- and Used-Car Shoppers in Q1 2024, April 2, 2024, <https://www.edmunds.com/industry/press/elevated-auto-loan-rates-hinder-new-and-used-car-shoppers-in-q1-2024-according-to-edmunds.html> (visited Jul. 24, 2024).

¹⁴ See Average age of vehicles hits new record in 2024, S&P Global, May 22, 2024, <https://www.spglobal.com/mobility/en/research-analysis/average-age-vehicles-united-states-2024.html> (visited Jul. 24, 2024).

¹⁵ See Cox Automotive Forecast, April 24, 2024, <https://www.coxautoinc.com/news/cox-automotive-forecast-april-2024-u-s-auto-sales-forecast/> (visited Jul. 24, 2024).

¹⁶ See [Alternative Fuels Data Center: Alternative Fueling Station Locator \(energy.gov\)](https://www.energy.gov/eere/alternative-fuels/alternative-fuels-data-center)

(EEI) says will be needed in 2030. EEI concludes that, despite significant planned investments, a charging infrastructure gap¹⁷ will result in a 68 percent shortfall in publicly accessible DCFC charging ports in 2030, stating: “the number of DCFC ports needed in 2030 to meet projected demand is more than double the planned DCFC ports.”¹⁸ The Alliance for Automotive Innovation has also found that an infrastructure gap exists, stating that “[m]ore than 1 million more public chargers (940,370 Level 2 and 141,417 DC Fast) are required to meet the National Renewable Energy Laboratory’s necessary infrastructure estimate for 2030. . . .438 chargers will need to be installed every day – or nearly 3 chargers every 10 minutes – through the end of 2030.”¹⁹ While California is certainly ahead of the rest of the country with over 44,000 charging ports—it will still have to increase the pace of the construction of charging infrastructure to meet its ambitious goals.

CARB should consider these critical concerns regarding the deployment of public charging infrastructure necessary to support mandated sales. The mere existence of public and private investments in publicly accessible charging projects alone does not negate the very likely possibility of public charging shortfalls. Reliable charging infrastructure is critical to the successful mass market adoption of light- and medium-duty EVs. CARB must fully account for the projected public charging demands that will result from ACC II.

V. Conclusion

A cohesive, practical, and attainable regulatory framework that accounts for consumer demand, recognizes the importance of all drivetrain technologies and fuels, and addresses the challenges posed by inadequate charging infrastructure and elevated ZEV costs is essential for achieving the fleet turnover that will meet clean air objectives. NADA urges CARB to amend ACC II to align its regulations of ICE vehicles with the recently finalized GHG rule and reconsider its decision not to amend the ZEV mandates to allow for a cohesive and attainable national regulatory regime.

On behalf of NADA, I thank CARB for the opportunity to comment on this matter.

Respectfully Submitted,



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¹⁷ [Charles Satterfield et al., Electric Vehicle Sales and the Charging Infrastructure Required Through 2030, EDISON ELECTRIC INSTITUTE \(June 2022\).](#)

¹⁸ Id. at 15.

¹⁹ Get Connected: Electric Vehicle Quarterly Report 2024 (Q1), Alliance for Automotive Innovation, <https://www.autosinnovate.org/posts/papers-reports/get-connected-q1-2024> (visited Jul. 24, 2024).