July 15, 2026

SUBMITTED ELECTRONICALLY TO https://ww2.arb.ca.gov/applications/public-comments

Subject: Comments on Second 15-Day Notice of Modified Text – Proposal to Permanently Adopt the Emergency Vehicle Emissions Regulations – Reinstatement of a Zero-Emission Vehicle Sales Mandate in Alternative Section 1962.2.1, Title 13, CCR (Appendix A-8)

The Alliance for Automotive Innovation ("Auto Innovators")[1] appreciates the opportunity to comment on the California Air Resources Board's ("CARB" or "Board") Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information, released June 30, 2026, in the rulemaking to permanently adopt the Emergency Vehicle Emissions Regulations (the "EVE Regulations").[2] Auto Innovators and our members have worked constructively and collaboratively with CARB and its staff for over 30 years, and we appreciate the Board's continuing efforts to work with industry to clarify regulatory requirements.

This letter focuses on a single yet significant issue in the Second 15-Day Changes: the wholesale substitution of the Board approved text in Title 13, California Code of Regulations (13 CCR), Section 1962.2.1 with the December 31, 2012, version of former section 1962.2. That substitution takes a provision that, as approved by the Board, imposed *no* numeric Zero-Emission Vehicle ("ZEV") sales-percentage obligation, and replaces it with a fully populated ZEV sales mandate reaching back to the beginning of the current 2026 model year ("MY"), which started over 7 months ago.

Such a broad change (1) is not "sufficiently related" to the text previously noticed for comment, as required for modifications made available under a 15-day notice, and (2) would impose new compliance and penalty exposure on MY vehicles that have already been produced, certified, and sold – including the MY 2026 vehicles currently being sold in California – without the notice, supporting analysis, lead time, or Board approval that a ZEV mandate of this magnitude requires.

Finally, while this letter focuses only on this discrete issue in 13 CCR 1962.2.1, we note that 13 CCR 1961.2.1 is likewise completely rewritten with 49 pages of text the public reviewed, and the Board approved, deleted and replaced by 43 pages of completely new text. In the short timeline of a 15-Day Notice, it is impossible to compare, contrast, understand, and develop comprehensive comments on the

[1] Auto Innovators represents the full auto industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to maintain U.S. competitiveness in cutting-edge automotive technology. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving $1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector. (www.autosinnovate.org).

[2] California Air Resources Board. (2026, June 30). Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information – Proposal to Permanently Adopt the Emergency Vehicle Emissions Regulations, and Appendix A-8.1 (Proposed Second 15-Day Changes to Proposed Title 13 Regulation Order). https://ww2.arb.ca.gov/rulemaking/2025/orhdomnibus

potential impact or appropriate recommendations from this massive change to a detailed technical regulation.

I. Background

At its March 26, 2026, public hearing,[3] the Board approved the permanent adoption of the EVE Regulations, which had become effective on October 2, 2025 through emergency rulemaking.[4] As part of that framework, CARB adopted an "alternative" compliance track – including alternative 13 CCR 1962.2.1. Under the "alternative" track, regulated parties could choose to follow either section 1962.2 or section 1962.2.1 "alternative" regulations "unless or until a court of competent jurisdiction issues a final ruling that H.J. Res. 88 (119th Congress) and H.J. Res. 89 (119th Congress) are invalid or that the waivers U.S. EPA granted California on January 6, 2025, 90 Federal Register 642 and 90 Federal Register 643, are in effect."

The March 26, 2026, Board adopted 13 CCR 1962.2.1 provides the basic ZEV requirement in subsection (a), but no numeric ZEV mandates. In fact, the Board left subsections (b) through (g) – the subsections that in earlier versions of the regulation contained the percentage ZEV requirements, manufacturer-size tiers, transitional ZEV ("TZEV") credit rules, deficit make-up obligations, and civil penalty provisions – entirely "[Reserved]." Specifically, the 13 CCR 1962.2.1 regulation the public reviewed and the Board approved imposed *no* numeric ZEV sales-percentage requirement on manufacturers.

On April 3, 2026, CARB released the First 15-Day Changes[5] to the 45-Day Proposal.[6] Again, 13 CCR 1962.2.1 contained *no* numeric ZEV sales-percentage requirement for manufacturers.

However, on June 30, 2026, CARB released the Second 15-Day Changes at issue here. According to CARB's Notice, without explanation or justification, the Second 15-Day Changes replace the text of 13 CCR 1961.2.1, 1962.2.1, and 1976.0.1 with the regulatory language of the December 31, 2012 versions of the corresponding sections – versions CARB states were covered by the section 209(b) waiver EPA granted in 2013 at 78 Fed. Reg. 2,112 (Jan. 9, 2013).[7] This unexpected change to 13 CCR 1962.2.1 directly conflicts with CARB's Motion to Dismiss filed on July 7, 2026 in *United States of America et al. V. California Air Resources Board et al.,* No. 26-847 (E.D. Cal. 2026). Regarding the ACC I ZEV standards, CARB attests:

---

[3] California Air Resources Board. (2026, April 3). *On-road heavy-duty engine and vehicle omnibus, low carbon fuel standard, and emergency vehicle emissions regulations*. https://ww2.arb.ca.gov/rulemaking/2025/orhdomnibus

[4] California Air Resources Board. (2025, September 15). Emergency Amendment and Adoption of Vehicle Emissions Regulations (filed with the Secretary of State, effective October 2, 2025; OAL File No. 2025-0922-01E). https://ww2.arb.ca.gov/rulemaking/2025/emergencyvehemissions

[5] California Air Resources Board. (2026, April 3). Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information (First 15-Day Changes) – Proposal to Permanently Adopt the Emergency Vehicle Emissions Regulations. https://ww2.arb.ca.gov/rulemaking/2025/orhdomnibus

[6] California Air Resources Board. (2025, September 23). Notice of Public Hearing to Consider Emergency Amendment and Adoption of Vehicle Emissions Regulations (45-Day Proposal). https://ww2.arb.ca.gov/rulemaking/2025/orhdomnibus

[7] Environmental Protection Agency. (2013, January 9). California State Motor Vehicle Pollution Control Standards; Notice of Decision Granting a Waiver of Clean Air Act Preemption for California's Advanced Clean Car Program and a Within the Scope Confirmation for California's Zero Emission Vehicle Amendments for 2017 and Earlier Model Years. 78 Fed. Reg. 2,112. https://www.govinfo.gov/app/details/FR-2013-01-09/2013-00181

> "[T]hese ZEV sales requirements terminated with model year 2025. Cal. Code Regs. Tit. 13, 1962.2(b). Thus, under ACC I no manufacturer is required to sell any particular percentage of ZEVs for the current model year or for future model years (emphasis added)." (p. 10).

Otherwise, for section 1962.2.1, that means substituting the reserved, no-ZEV mandate text described above with the December 31, 2012 version of section 1962.2, which contains a complete percentage ZEV sales mandate starting at 22 percent for 2025 "and subsequent" model years, together with separate floor requirements and TZEV, sub-limits for large volume manufacturers, distinct compliance options for intermediate and small volume manufacturers, deficit make-up obligations, and civil penalty exposure under Health and Safety Code section 43211 for manufacturers that fail to meet the new ZEV credit percentages.

As noted earlier, we do not have sufficient time to review and comment on the potential impact of over 90 pages of deletions and insertions associated with 13 CCR 1961.2.1.

II. The Reinstated ZEV Sales Mandate Is Substantial And Not "Sufficiently Related" to the Text Previously Noticed

The California Administrative Procedure Act ("California APA") contains procedural requirements to ensure that the regulated community will have a voice in the creation of regulations.[8] Those requirements are not being met here. Government Code section 11346.8, subdivision (c),[9] permits an agency to make text available for a shortened, 15-day public comment period only where the modified text is "(1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action." Office of Administrative Law regulations codify the definition of "nonsubstantial" in 1 CCR 42.[10] A modification that introduces an entirely new regulatory obligation – one that a member of the public reviewing the original proposal would have no reason to anticipate – does not meet that test, regardless of how the agency characterizes its purpose.

The Second 15-Day Change to section 1962.2.1 does not meet that standard. As discussed in Sec. II herein, a ZEV mandate is substantive and would have significant impacts on the regulated community. Reinstating obligations from a 2012 version of regulations without justification or notice is no mere minor or grammatical correction. Moreover, a stakeholder who reviewed the 45-Day Proposal (or the First 15-

---

[8] In addition to the procedural requirements of the California APA, as discussed in Auto Innovators' comments to the Emergency Amendment and Adoption of Vehicle Emissions Regulations, significant, substantive changes to California's motor vehicle emission program would require a waiver of federal preemption from the U.S. Environmental Protection Agency under Sec on 209(b) of the Clean Air Act or a determination that the amendments are within the scope of an existing waiver. Alliance for Automotive Innovation (2025, September 27) *Comments to Emergency Amendment and Adoption of Vehicle Emission Regulations.* https://carb.commentinput.com/comment/extra?id=ZRikSgb6N

[9] Cal. Gov't Code § 11346 et seq. (2026). https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=1.&chapter=3.5.&article=5.

[10] Cal. Code Regs. tit. 1, § 42 (2026). https://govt.westlaw.com/calregs/Document/I7E5D6D704C6611EC93A8000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

Day Notice, for that matter) and confirmed that alternative section 1962.2.1 left the ZEV percentage subsections "[Reserved]" had no notice – and no reason to anticipate – that CARB might instead insert an entirely different regulatory scheme containing a detailed, escalating ZEV sales mandate running from model year 2018 forward. That is not a clarifying edit, a typographical correction, or a cross-reference fix of the kind CARB made elsewhere in this same Second 15-Day Notice. It is the reintroduction of substantive numeric compliance obligations that were expressly absent from the noticed text, on a subject – ZEV sales percentages – that the public was told was **not** part of this proposal.

CARB's stated rationale – that the December 31, 2012, versions of these sections are needed "to ensure that the alternative versions of the regulations have waivers of federal preemption" – does not resolve this problem. If CARB believes a numeric ZEV credit sales mandate is necessary for this alternative compliance pathway, that is a substantive policy choice that belongs in a new proposal the public can actually review and comment on and the Board can approve – not a byproduct of a waiver-conformance edit introduced in a second round of 15-day changes. This attempt to promulgate a ZEV mandate through this Second 15-Day Change does not satisfy the obligations of the California APA and thereby deprives stakeholders of the transparency and engagement that is required by law to promote reasoned and informed policymaking.

III. Applying the Reinstated Mandate to the Current, 2026 Model Year, Raises Serious Retroactivity Concerns

Alternative section 1962.2.1 is titled to cover "2018 and Subsequent Model Year" vehicles, and the reinstated percentage table begins with model year 2018 and runs through "2025 and subsequent" at a 22 percent requirement – which by its terms reaches 2026 MY vehicles manufacturers are certifying and selling in California today, 2027 MY vehicles many of which have already been certified, and subsequent MY products that are already planned. Typically, CARB allows three years prior to imposing substantial new requirements, which this Second 15-Day Notice compels. Manufacturers made sourcing, production, and certification decisions under the regulatory landscape that actually existed at the time, which – as CARB itself recognized through Manufacturers Advisory Correspondence ECCD-2025-03[11] and ECCD-2025-08,[12] and again through the reserved treatment of subsections (b) through (g) in 45-Day Notice and the First 15-Day Changes – did not include this reinstated percentage obligation for that period.

Imposing a ZEV sales schedule and applying a 22 percent requirement to the current model year, through a 15-day notice – without the extended comment period, environmental and economic analysis, and manufacturer lead-time findings that CARB's own prior ZEV rulemakings have included – does not provide a fair opportunity for public consideration and comment the law requires.

---

[11]California Air Resources Board. (2025, May 23). Manufacturers Advisory Correspondence (MAC) ECCD-2025-03: Regulatory Guidance for Advanced Clean Cars II Regulation (ACC II), Zero-Emission Powertrain Certification Regulation, Advanced Clean Trucks Regulation (ACT), Heavy-Duty Engine and Vehicle Omnibus Regulation, Zero-Emission Airport Shuttle Regulation, and the Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions.
[12]California Air Resources Board. (2025, August 25). Manufacturers Advisory Correspondence (MAC) ECCD-2025-08: Regulatory Guidance for Engine and Vehicle Certification in California. https://ww2.arb.ca.gov/sites/default/files/2025-08/MAC%20ECCD-2025-08.pdf

IV. Recommendation

Auto Innovators requests that CARB withdraw the proposed Second 15-Day Change and retain the reserved treatment of 13 CCR 1962.2.1 subsections (b) through (g) as reflected in the 45-Day Notice and the First 15-Day Changes previously available for public comment. We respectfully note that, before these regulations may take effect, the Office of Administrative Law must review the rulemaking record for compliance with the California APA.[13]

To the extent CARB believes a new ZEV sales mandate for the alternative compliance pathway is necessary, Auto Innovators requests that CARB proposes that change through a new rulemaking, compliant with the obligations of the California APA, and addresses its application forward-looking, to forthcoming MY certification cycles, and explains its interaction with MAC ECCD-2025-08 – so that manufacturers, dealers, and the public have a full and fair opportunity to comment on its substance.

We understand that the ZEV targets inserted into the Second 15-Day Change will be withdrawn before the Emergency Rule is finalized and sincerely appreciate the productive conversations we have had with CARB on this topic. Auto Innovators and our members remain committed to working with CARB staff in good faith to resolve the underlying regulatory uncertainty in a manner that provides manufacturers, dealers, California consumers, and all stakeholders with clear, workable, and lawfully adopted requirements.

Sincerely,

Cory Bullis
Director, Energy & Environment Policy
Alliance for Automotive Innovation

[13] Gov. Code, § 11349.1