REQUEST FOR AN EARLY EFFECTIVE DATE
Pursuant To Government Code Section 11343.4(c)

The Air Resources Board (ARB or Board) formally requests, under Government Code section 11343.4(c), that the Office of Administrative Law (OAL) prescribe an early effective date for the adopted amendments to the California Low-Emission Vehicle Program Regulations (LEV Regulations), title 13, California Code of Regulations, including amendments to Sections 1900, 1956.8, 1960.1, 1961, 1961.1, 1965, 1968.2, 1968.5, 1976, 1978, 2037, 2038, 2062, 2112, 2139, 2140, 2145, 2147, 2235, and 2317, and adoption of new Sections 1961.2 and 1961.3, that were considered by the Board on January 26-27, 2012 and subsequently adopted. Specifically, ARB requests that the regulations be effective on the date of OAL approval. ARB believes that "good cause" exists for OAL to grant ARB's request – i.e., that the amendments become effective with OAL's approval and filing of the regulations with the Secretary of State.

DEMONSTRATION OF GOOD CAUSE

In this rulemaking, the Board considered and subsequently adopted amendments to California's LEV Regulations which will require a reduction in fleet average emissions of new passenger cars, light-duty trucks, and medium-duty passenger vehicles to "super ultra-low-emission vehicle" levels from 2015 through 2025. Under the adopted amendments automobile manufacturers are required to take the initial steps towards achieving the emissions reduction goals with 2015 model year vehicles which will be offered for sale to the public in calendar year 2014. Considering the production cadence typically followed by vehicle manufacturers, this means vehicle development and demonstration of emission compliance at full useful life, 150,000 miles, must begin in the very near future if 2015 model year vehicles are to be production ready by the 2014 calendar year.

Also, modifications to the LEV Regulations require manufacturers of hydrogen vehicles to report projected California sales of those vehicles beginning with the 2012 calendar year. This data will be used in the Clean Fuels Outlet Regulation, which requires major refiner/importers of gasoline to install clean fuel outlets for a particular fuel once the number of vehicles that operate on that fuel are projected to reach a certain threshold. For the 2012 calendar year only, the manufacturer of vehicles that use hydrogen fuel will be required to submit this data twenty-nine months prior to January 1 of the model year for which the vehicles will be certified. Since the 2012 calendar year has already begun, an early effective date is needed to ensure that the Advanced Clean Cars package becomes effective in sufficient time to enable automobile manufacturers to implement this reporting requirement.

In addition, ARB must submit the adopted regulations to U.S. EPA requesting a waiver of federal preemption under section 209(b) of the Clean Air Act. Because EPA typically does not begin waiver proceedings until California's regulations are effective, and because some of the adopted regulations apply to vehicles produced starting in the 2013 calendar year and EPA's waiver process typically takes a minimum of six months, it is imperative for these regulations to become effective upon filing.

Accordingly, to allow automobile manufacturers adequate lead time to comply with the amendments, and to best ensure timely EPA action, ARB believes there is good cause for OAL to grant ARB's request for an early effective date that coincides with its approval of the amendments and filing of the amendments to the Secretary of State pursuant to Government Code section 11343.4(c).

Date:

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