ATTACHMENT A

MODIFICATIONS TO THE PROPOSED REGULATION ORDER ELECTRIC VEHICLE SUPPLY EQUIPMENT STANDARDS

Adopt new sections 2360, 2360.1, 2360.2, 2360.3, 2360.4 and 2360.5, Title 13, Chapter 8, Subchapter 3, California Code of Regulations, to read as follows:

(Note: The original proposed regulatory language is shown in plain text. New deletions and additions to the proposed language that are made public with this notice are shown in ~~strikethrough~~ to indicate deletions and <u>underline</u> to indicate additions.)

§ 2360 Applicability

(a) This chapter applies to all electric vehicle service providers (EVSPs) operating one or more publicly available Level 2 or Direct Current Fast Charger (DCFC) Electric Vehicle Supply Equipment (EVSE) installed in California. If an EVSP also operates EVSE that are not publicly available, the requirements of this chapter apply only to that EVSP's publicly available Level 2 or DCFC EVSE installed in California.

(b) For the purposes of this chapter, the following definitions shall apply:

"Charging session" means an event starting when a user or a vehicle initiates a refueling event and stops when a user or a vehicle ends a refueling event.

<u>"Clearly marked" means a sign, sticker, plaque or any other visible marker that is readable and indicates if the EVSE is available for private or public use.</u>

"Common interest development" means a ~~condominium, timeshare, or other residential planned development~~ <u>residential community apartment project, a residential condominium project, a residential planned development, or a residential stock cooperative.</u>

"Direct Current Fast Charger (DCFC <u>or DCFC EVSE</u>)" means an EVSE capable of supplying direct current (DC) electricity to a vehicle fitted with the appropriate connection to support refueling the vehicle's energy storage battery.

"Electric Vehicle Service Provider (EVSP)" means the entity responsible for operating one or more networked or non-networked EVSE. Operating includes, but is not limited to, sending commands or messages to a networked EVSE; receiving commands or messages from a networked EVSE; or providing billing, maintenance, reservations, or other services to a non-networked or networked EVSE. An EVSP may designate another entity to act as the EVSP for purposes of this chapter.

“Electric Vehicle Supply Equipment (EVSE)” means the unit controlling the power supply to one or more vehicles during a charging session.

“Installed” means the date the EVSE is first available for use by the public for a charging session.

“Kiosk” means a standalone physical unit that allows users to pay for and start a charging session at one or more EVSE located at the same site as the kiosk.

“Level 2 Electric Vehicle Supply Equipment (Level 2 EVSE)” means an EVSE capable of supplying 208 to 240 Volt alternating current (AC), single phase electricity to a vehicle fitted with an on-board charger that can accept and convert that AC electricity ~~energy~~ into DC electricity to refuel~~ing~~ the vehicle’s energy storage battery.

“Radio Frequency Identification (RFID) card” means a card that communicates with a reader through radio-frequency electromagnetic fields and is capable of transmitting payment information.

“Mobile payment” means ~~a near field communication reader, enabling payment from a cell phone~~ hardware that enables a driver to complete a payment from a cell phone via contactless payment.

“Networked Electric Vehicle Supply Equipment (Networked EVSE)” means an EVSE capable of receiving and sending commands or messages remotely from an EVSP.

“Non-networked Electric Vehicle Supply Equipment (Non-networked EVSE)” means an EVSE not capable of receiving and sending commands or messages remotely from an EVSP.

“Payment Card Industry Data Security Standard Level 1 (PCI-DSS Level 1)” means payment card information data security standards consistent with “Payment Card Industry (PCI) Data Security Standard - Requirements and Security Assessment Procedures” published by PCI Security Standards Council (Version 3.2.1, May 2018).

“Publicly available Electric Vehicle Supply Equipment (publicly available EVSE or publicly available DCFC EVSE or publicly available Level 2 EVSE)” means an EVSE and associated parking space or spaces designated by a property owner or lessee to be available to, and accessible by, the public for any period of time. An EVSE designated by a lessee or a property owner to be available only to customers or visitors of the business is a publicly available EVSE for purposes of this chapter. EVSE and associated parking spaces located in parking garages or gated facilities are considered publicly available for purposes of this chapter if any member of the public can obtain vehicular access to the facility for free or through payment of a fee.

If an EVSE and associated parking space is made available to the public for only limited time periods, that EVSE and associated parking space is considered a publicly available EVSE during those limited time periods only, and must comply with this section during those limited time periods.

A publicly available EVSE does not include:

(i) A workplace EVSE and its associated parking space if it is clearly marked and operated as available exclusively to employees or contracted drivers. For the purposes for this chapter contracted drivers includes participating drivers, as that term is defined in Public Utilities Code § 5431, regardless of the physical accessibility of the EVSE to the public;

(ii) An EVSE and associated parking spaces reserved exclusively to residents, tenants, visitors, or employees of a private residence or common interest development; or a residential building adjacent to private residence; or

(iii) An EVSE provided by a manufacturer of electric vehicles for the exclusive use by vehicles it manufactures.

"Replaced" means that the EVSE has been substantially modified or substituted with another unit, as indicated by a change in the serial number, EVSE ID, or the model name of the EVSE.

"Service provider application" means a mobile phone downloadable software package that connects users to an EVSP and enables users to begin, end, and pay for charging sessions.

"Station ID" means the physical site, typically identified by a street address, at which one or more EVSE are located.

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.

§ 2360.1 Requirements for Labeling Electric Vehicle Supply Equipment

(a) Applicability: The requirements of this section apply to all EVSPs operating one or more publicly available Level 2 or DCFC EVSE installed in California.

(b) DCFC EVSE labeling deadline. By ~~July 1, 2020~~ January 1, 2022, the EVSP shall install and maintain, for each publicly available DCFC EVSE that is operated by the EVSP, a label that complies with 16 CFR Part 309, Subpart B – Requirements for Alternative Fuels, Subject group 31 § 309.17 a(3) [as amended April 23, 2013].

(c) Level 2 EVSE labeling deadline. By July 1, 2023, ~~Level 2,~~ the EVSP shall install and maintain, for each publicly available Level 2 EVSE that is operated by ~~the~~ that EVSP, a label that complies with 16 CFR Part 309, Subpart B – Requirements for Alternative Fuels, Subject group 31 § 309.17 a(3) [as amended April 23, 2013].

(d) If the EVSE requires payment for use, the EVSP shall disclose to the user, at a minimum, the following information at the point of sale, if applicable:

(1) A fee for use of the parking space.

(2) A nonmember plug-in fee from the EVSP.

(3) Price to refuel in U.S. dollars per kilowatt-hour or megajoule.

(4) Any potential changes in the price to refuel, in U.S. dollars per kilowatt-hour or megajoule, due to variable pricing. This may be specified as a range of prices, in U.S. dollars per kilowatt-hour or megajoule.

(5) Any other fees charged for a refueling session.

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.

§ 2360.2 Payment Method Requirements for Electric Vehicle Supply Equipment

(a) Applicability. The requirements of this section apply to publicly available EVSE installed in California that require payment.

(b) The EVSP shall ensure that each EVSE that it operates, and for which this section applies, complies with the requirements of this section.

(c) Compliance deadlines.

(1) DCFC EVSE compliance deadline. A DCFC EVSE installed on or after ~~July 1, 2020~~ January 1, 2022, shall comply with the requirements of this section. A DCFC EVSE installed prior to ~~July 1, 2020~~January 1, 2022, shall comply with the requirements of this section when the EVSE is replaced, but in no case later than July 1, 2033~~by five years from the date of installation, or July 1, 2020 (whichever is later)~~.

(2) Level 2 EVSE compliance deadline. A Level 2 EVSE installed on or after July 1, 2023, shall comply with the requirements of this section. A Level 2 EVSE installed prior to July 1, 2023, shall comply with the requirements of this section when the EVSE is replaced, but in no case

later than July 1, 2033~~by five years from the date of installation, or July 1, 2023 (whichever is later)~~.

(d) All EVSE subject to this section shall have a credit card reader physically located on either the EVSE unit or a kiosk used to service that EVSE. The credit card reader shall comply with all of the following requirements:

(1) The credit card reader shall accept, at a minimum, Euro Mastercard Visa (EMV) chip, and, at a minimum, one of the following credit card types: Visa, MasterCard, or American Express.

(2) The credit card reader shall be non-locking and shall always permit customers to remove credit cards without damage to the card, including during a fault situation or power failure.

(3) The credit card reader device shall comply with PCI – DSS Level 1.

(e) All EVSE subject to this section shall have a mobile payment hardware physically located on the EVSE or kiosk used to service that EVSE.

(f) The EVSP shall provide and display a toll-free number on each EVSE or kiosk used to service that EVSE that provides the user with the option to initiate a charging session and payment at any time that the EVSE is operational and publicly available.

~~(g) At a minimum, the EVSP shall disclose to the user, at the point of sale, the following information, if applicable:~~

~~(6) A fee for use of the parking space.~~

~~(7) A nonmember plug-in fee from EVSP.~~

~~(8) Price to refuel in U.S. dollars per kilowatt-hour or megajoule.~~

~~(9) Any potential changes in the price to charge, in U.S. dollars per kilowatt-hour or megajoule, due to variable pricing. This may be specified as a range of prices, in U.S. dollars per kilowatt-hour or megajoule.~~

~~(10)Any other fees charged for a refueling session.~~

(~~h~~g) The EVSP shall not require a subscription or membership in order to initiate a charging session for an EVSE subject to this section.

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.

§ 2360.3 Facilitating Roaming Agreements

(a) Applicability. This section applies to ESVPs operating one or more networked EVSE installed in California.

(b) ~~By~~ No later than one year after [insert the effective date of the regulation], the EVSP shall meet, at a minimum, and maintain the "California Open Charge Point Interface Interim Test Procedures for Networked Electric Vehicle Supply Equipment for Level 2 and Direct Current Fast Charge Classes," ~~,~~ adopted [insert date of adoption], and incorporated by reference, for each applicable EVSE. This does not preclude the additional use of other communication protocols.

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.

§ 2360.4 Reporting for Electric Vehicle Service Providers

(a) Applicability. The requirements of this section apply to all EVSPs operating, or intending to operate within 45 days, one or more publicly available Level 2 or DCFC EVSE installed in California.

(b) Initial reporting deadline for existing EVSPs. On or before 45 days after [effective date of the regulation], the EVSP shall collect and submit the following information to the Executive Officer:

(1) Initial EVSP contact information as specified in subsection (g).

(2) An EVSE model certification, as specified in subsection (h), for each EVSE model operated in California.

(3) EVSE inventory ~~and usage information~~, as specified in subsection (i). For this initial inventory ~~and usage information~~ report, the EVSP may omit information that it has not collected in the past if that information could not be reasonably obtained within the past 45 days.

(c) Initial reporting deadline for new EVSPs. If an EVSP intends to operate one or more publicly available Level 2 or DCFC EVSE installed in California on or after [effective date of the regulation], then that EVSP shall collect and submit the following information to the Executive Officer at least 45 days before installation of any EVSE in California:

(1) Initial contact information as specified in subsection (g).

(2) An EVSE model certification, as specified in subsection (h), for each EVSE model that the EVSP intends to install in California within the next 45 days.

~~(3) EVSE inventory and usage information, as specified in subsection (i). For this initial inventory and usage information report, the EVSP may omit information that it has not collected in the past if that information could not be reasonably obtained within the past 45 days.~~

(d) Reporting deadline for new EVSE models. If an EVSP intends to operate a new unique EVSE model in California on or after [effective date of the regulation], then that EVSP shall collect and submit initial contact information to the Executive Officer as specified in subsection (h) at least 45 days prior to installation of that EVSE model in California.

(e) Annual reporting deadline for all EVSPs. On or before March 1 of each year, the designated contact for the EVSP shall collect and submit to the Executive Officer annual EVSE inventory information for the prior calendar year, as specified in subsection (i). If the EVSP operates one or more EVSEs that require payment for use, the designated contact for the EVSP shall also collect and submit to the Executive Officer annual EVSE payment information for the prior calendar year, as specified in subsection (j). The first annual report is due March 1, ~~2021~~2022. For example, an EVSP would submit information no later than March 1, ~~2021~~2022, for EVSE that it operated between January 1, ~~2020~~2021, and December 31, ~~2020~~2021.

(f) Information updates. Any EVSP reporting under this subsection shall update its initial contact information and EVSE model certification within 45 days of any changes to that information.

(g) Initial EVSP contact information. The initial EVSP contact information reported by the EVSP shall include all of the following information.

(1) EVSP company name.

(2) Website for EVSP.

(3) Name of designated contact person.

(4) Email of designated contact person.

(5) Phone number of designated contact person.

(6) Mailing address of designated contact person.

(h) EVSE model certification. The EVSE model certification reported by the EVSP shall include all of the following information, for each EVSE model:

(1) Manufacturer name and model number.

(2) Type of EVSE (Level 2 or DCFC EVSE).

(3) Nominal voltage, current supported (amps), power supported (kilowatts).

(4) Number of ports.

(5) Number of connectors and connector standard.

(6) Type of payment devices installed.

(7) Manufacturer website.

(8) EVSP toll-free number or numbers displayed on the EVSE model.

(9) EVSE model photos: front, back, payment hardware, fee display (if display is multiple pages, include photos of complete information).

(10) Kiosk model photos: front, back, payment hardware, fee display (if display is multiple pages, include photos of complete information), if applicable.

(i) Annual EVSE inventory ~~and usage information~~. The annual EVSE inventory ~~and usage~~ report filed by the EVSP shall include all of the following information, broken down per publicly available EVSE operated by the EVSP in California:

(1) New EVSE installations in California in the reporting period:

(A) Station ID - unique identifier which allows stations to be tied to station details.

(B) Station Name - the name of station.

(C) EVSE ID or serial number.

(D) Station Address.

(E) Latitude, longitude - the physical location of the station, Longitude: decimal degree example -126.104965. Latitude: decimal degree example 50.770774.

(F) Model of EVSE.

(2) Listing of retired, decommissioned, or removed EVSE in California during the reporting period:

(A) Station ID - unique identifier which allows stations to be tied to station details.

(B) Station Name - the name of station.

(C) EVSE ID or serial number.

(D) Station Address.

(E) Latitude, longitude - the physical location of the station.

(F) Model of EVSE.

~~(3) Total number of charging sessions started with a credit card.~~

~~(4) Total number of charging sessions started with an NFC.~~

~~(5) Total number of charging sessions started with a toll free number.~~

~~(6) Total number of charging sessions started with membership RFID card.~~

~~(7) Total number of charging sessions started with service provider application.~~

~~(8) Total number of other methods of payment, including sessions that did not require payment.~~

~~(9) Total time (in terms of percentage of total operational time) payment transactions were unable to occur due to nonfunctioning credit card reader or near field communication reader. Total operational time per EVSE, total operational time for credit card reader, total operational time for NFC, total operational time for toll free number, total operational time for RFID. Total operational time for annual period.~~

~~(10) Report pricing~~

~~(A) A fee for use of the parking space.~~

~~(B) A nonmember plug-in fee.~~

~~(C) Price to charge in U.S. dollars per kilowatt-hour or megajoule.~~

~~(D) Any potential changes in the price to charge, in U.S. dollars per kilowatt-hour or mega-joule, due to variable pricing. This may be specified as a range of prices, in U.S. dollars per kilowatt-hour or megajoule.~~

~~(E) Any other fees charged for a charging session.~~

(j) Annual EVSE payment information for EVSE installed in California that require payment. The annual EVSE payment report filed by the EVSP shall include all of the following information, reported in statewide aggregated numbers. No payment data is required for an EVSE that does not require payment.

(1) Total number of charging sessions started with a credit card.

(2) Total number of charging sessions started with an NFC.

(3) Total number of charging sessions started with a toll free number.

(4) Total number of charging sessions started with a membership RFID card.

(5) Total number of charging sessions started with a service provider application.

(6) Total number of charging sessions with other methods of payment, including sessions that did not require payment.

(k~~j~~) Reporting to the National Renewable Energy Laboratory (NREL) Alternative Fuels Data Center (AFDC).

(1) No later than six months after [insert the effective date of the regulation], and at least once a month if there are any changes, for each publicly available EVSE operated by the EVSP in California, the EVSP shall report each EVSE installed to NREL using the standard fields listed below, to be published on AFDC.

(2) For any EVSE decommissioned since the last report, the EVSP shall report the date the EVSE was decommissioned. For any EVSE no longer operated by the EVSP since the last report, the EVSP shall report the date the EVSP ceased operating the EVSE.

(3) The EVSP shall ensure that its data reported to NREL match corresponding data reported to the Executive Officer in its annual EVSE inventory and usage information report.

(4) ~~NREL~~ The data reported by the EVSP shall include all of the following, broken down per publicly available EVSE operated by the EVSP in California:

(A) Station ID – unique identifier which allows stations to be tied to station details.

(B) Station Name – the name of station.

(C) Phone number – the phone number to call if a user has problems at the station.

(D) Access type – how a user accesses the station (i.e., private, private – government only, private – residential, public, public – limited hours, public – call ahead, public – card key at all times, public – credit card at all times (no membership requirement).

(E) Access Days/Time – hours of public operation for the station.

(F) Station Type – Primary customer the station is intended to serve (i.e., multi-unit dwelling, workplace, fleet, transportation network company, public).

(G) Payment Methods – list of payment methods accepted at the station.

(H) Payment Actions – list of how a user pays with their payment method at the station.

(I) Latitude, Longitude – the physical location of the station.

(J) Network – the network service provider (EVSP) of the station.

(K) Pricing – field that provides pricing information to the consumer (i.e., $/kWh (kilowatt-hour), $/MJ (megajoule), demand response, variable, non-member fee, parking fee).

(L) Open Date – date station was first in service.

(M) Address – Country, State, Postal Code, City, Street Address, Directions.

(N) EVSE ID – a unique identifier for the EVSE within the network provided by the EVSP.

(O) Latitude, Longitude – the physical location of the EVSE.

(P) Manufacturer of EVSE – the company that manufactured the EVSE.

(Q) Model of EVSE – the model number of the EVSE.

(R) Serial Number of EVSE – unique identifier on the EVSE assigned by the manufacturer.

(S) Power Sharing capabilities of EVSE - if this EVSE has multiple ports does it distribute power among all ports in use.

(T) Port ID – a unique identifier for each port, unique within the context of the EVSP servicing the EVSE.

(U) Level – classification of the port which indicates the rate of the battery refuel (i.e., AC Level 2 (3.3kW – 22kW) DC Fast (23kW+).

(V) Connectors – connector types available at the EVSE to connect to the vehicle (i.e., SAE J1772, J1772 Combo, CHAdeMO).

(l~~k~~) 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 (government Code, §§. 6250 et seq.). The Board may also disclose information claimed by the applicant to be confidential as required by law.

(m~~l~~) The EVSP shall submit the initial EVSP contact information, EVSE model certification, annual EVSE inventory and usage information, as well as any subsequent updates to that information, electronically via email to EVSE@arb.ca.gov, unless the Executive Officer has approved in writing another format.

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.

§ 2360.5 Civil Penalty Schedule

(a) An EVSP cited for any violation of section 2360.1 is subject to a $300 penalty if the EVSP submits a demonstration of correction and pays the assessed penalty within 45 days from personal or certified mail receipt of the Citation.

(b) An EVSP cited for any violation of sections 2360.2 in whole or in part is subject to a $600 penalty if the EVSP submits a demonstration of correction and pays the assessed penalty within 45 days from personal or certified mail receipt of the Citation.

(c) An EVSP cited for any violation of sections 2360.4 in whole or in part is subject to a $600 penalty if the EVSP submits a demonstration of correction and pays the assessed penalty within 45 days from personal or certified mail receipt of the Citation.

(d) An EVSP cited for violation of section 2360.3 is subject to a $1,000 penalty if the EVSP submits a demonstration of correction and pays the assessed penalty within 45 days from personal or certified mail receipt of the Citation.

(e) If the EVSP cited for any violation of this chapter fails to correct the cited violation within 45 days of personal or certified mail receipt of the Citation that EVSP is subject to an additional penalty of $1,000 for each 45-day period for which the cited violation is not corrected, to a maximum of $37,500.

(f) The penalties in this section apply per EVSE or per kiosk, as applicable.

(g) The Executive Officer shall annually adjust all penalties specified in this section for inflation based on the California Consumer Price Index, beginning one year after [insert effective date of the regulation].

NOTE: Authority cited: sections 39600, 39601, 43016, 44268, and 44268.2, Health and Safety Code. Reference: section 44268, section 44268.2**,** Health and Safety Code.