

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR
THE AVAILABILITY OF CALIFORNIA MOTOR VEHICLE SERVICE INFORMATION

Public Hearing Dates: January 22, 2004
May 20, 2004

First Public Availability Date: August 6, 2004

Second Internet Posting Date: September 28, 2004

Second Public Availability Date: September 30, 2004

Second Deadline for Public Comment: October 18, 2004

This notice provides a second supplemental period during which the public may comment on additional modifications being proposed to Title 13, California Code of Regulations (CCR), section 1969.

At its January 22, 2004, public hearing, the Air Resources Board (the "Board" or "ARB") adopted amendments to the regulation in Title 13, CCR, section 1969, which sets forth requirements for the availability of emission-related service information and tools in California. The amendments primarily expand the applicability of the regulation to cover heavy-duty vehicles equipped with on-board diagnostic systems and address service information requirements for on-board computers equipped with passive anti-theft devices. Other minor amendments were also adopted to clarify and increase the effectiveness of the requirements. The staff provided an informational update to the Board on May 22, 2004, regarding its efforts to further address issues and questions remaining from the January hearing.

The originally proposed amendments as set forth in the Initial Statement of Reasons (Mail-out MSO #2003-06) are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Modifications made in the first 15-day notice (Mail-out MSO #2004-03) are shown in **bold double-underline** to indicate additions to the initial proposal and ~~**bold strikeout**~~ to indicate deletions. In response to written submittals received during the 15-day notice comment period, the staff is making additional changes. They are described below:

- Global Document Modifications:

- In sections 1969(c)(11)(A), (c)(15), (d)(1), (d)(2)(H), (d)(3)(C)(iii), (d)(4), (e)(2)(F), (f)(2), (f)(3)(A), and (f)(4), references to "franchised dealerships and authorized service networks" have been modified to "franchised dealerships or authorized service networks." These changes are being made to minimize confusion regarding when a motor vehicle manufacturer must make service information available. The ARB received comments that the use of the term "and" made it possible to interpret the regulatory language as requiring the availability of information only when it has been made available to **both** dealerships and service networks, which was not the staff's intent. The phrase "either franchised

dealerships or authorized service networks” is used in section 1969(d)(3)(C)(iii) to make clear that the price of alternative means used for the availability of initialization information must not be discriminatory to covered persons when compared to either one of these parties.

- Title 13, California Code of Regulations

§1969(a)(2): Motor vehicle manufacturers are now provided with 180 days from the effective date of the regulatory modifications to comply with amendments made to section 1969(f)(3)(A). This additional time is necessary to allow manufacturers to make necessary software changes to comply with the revised reprogramming methods in the Society of Automotive Engineers Recommended Practice J2534 and to verify compatibility with equipment and tool companies’ pass-thru devices.

§1969(c)(4): The section has been modified to make clear that persons and entities involved in the repair of heavy-duty vehicles, engines, or transmissions do not have to be licensed with the Bureau of Automotive Repair (BAR) in order to be considered covered persons. The BAR has commented to the ARB that it does not typically license heavy-duty service facilities. This modification ensures that independent heavy-duty service facilities are not excluded from purchasing desired service information and tools.

§1969(c)(11) and (c)(15): In order to remain consistent with the definition provided in section 1969(c)(7), the term “emission-related motor vehicle service information” used in these two sections is modified to “emission-related motor vehicle information.”

§1969(d)(1) and (e)(2)(G): In response to comments received regarding the possibility of training materials being withheld from the aftermarket, language has been added requiring motor vehicle manufacturers to list training materials on their service information websites that they deem are not useful for self-study. The ARB would review such lists to ensure that valuable training information is not inappropriately withheld under the provision. Manufacturers would not have to list text-based training materials that are sold only in a bundle with associated media (e.g., videocassettes or compact discs).

§1969(d)(2)(H): The phrase “upon request” is deleted from the last sentence in this section to clarify that the aftermarket is not required to make a request to motor vehicle manufacturers in order for the information to be made available. Other minor changes were also made to this section to improve clarity.

These amended portions of Title 13, CCR, section 1969 are indicated by shaded double underline for additions and ~~shaded double strikeout~~ for deletions. The full text of the regulation as amended and other regulatory documents for this rulemaking may be downloaded from the Internet at the address below:

<http://www.arb.ca.gov/regact/cmvsip04/cmvsip04.htm>

To receive a copy of the amended service information regulation via regular mail, please contact Mr. Dean Hermano, Staff Engineer, at (626) 459-4487, or dhermano@arb.ca.gov.

All documents referenced in the regulatory language are available for public inspection from the Clerk of the Board at 1001 "I" Street, 23rd floor, Sacramento, California 95814.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the amendments to Title 13, CCR, section 1969, after making them available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments on the modifications must be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail must be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: cmvsip04@listserv.arb.ca.gov

Facsimile submissions are to be transmitted to the Clerk of the Board at: (916) 322-3928.

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received by the ARB by 5:00 p.m. on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above described modifications to the regulation shall be considered by the Executive Officer.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please go to <http://inside.arb.ca.gov/as/eo/languageaccess.htm> or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.