AIR RESOURCES BOARD

Office of Legal Affairs

Board Administration
and Regulatory Coordination Unit
(BARCU)

Pre and Post Regulatory Activity Training

2006-2007

05

PRE-45-DAY NOTICE ACTIVITIES

RULE DEVELOPMENT

Workshops/Public Consultation

The ARB is a regulatory agency, and drafts its regulations in-house. ARB workshops serve as an informal invitation for ideas or suggestions for possible inclusion in the proposed regulation. ARB invites representatives of the segment of the public that will be affected by the rule to participate in writing the early draft of the regulatory text.

Must perform economic and cost analysis. Determine the various types of impacts that could occur as a result of the regulations that are proposed each year.

When the text is worked out to the ARB's satisfaction, the formal 45-day Notice process is initiated.

45-DAY NOTICE PACKAGE

45-Day Public Notice

Notice to the public of proposed action. The Notice is mailed to those who have written to the agency requesting to be put on its mailing list to be informed of regulatory actions, to representatives of businesses affected by the regulation, and to other interested persons or groups as ARB deems appropriate (PIO 5).

Staff Report: Initial Statement of Proposed Reasons, Including Text of Proposed Regulations [and Incorporated Documents]
The ISOR describes why the regulation is necessary and provides the basis for the agency decision to take this particular course of action.

Proposed Regulations

Formal statement of agency policy – rule/standard of general application. This is the most important step in the rulemaking process. When everything is done and over, the regulation is what you live with.

Economic and Fiscal Impact Statement (Form 399)

Intended to provide a clear and concise summary of the economic impacts of proposed regulations. We are required to provide in the rulemaking record facts, evidence, documents, testimony, or other evidence relied upon to support impact findings. When there is fiscal impact, must submit to the Department of Finance 30 days *prior to* filing with the Office of Administrative Law (OAL).

Numerous questions request dollar amounts or other numeric values. We should provide quantitative responses to such requests whenever possible. If it is not possible to provide a precise numeric response, an estimated range or order of magnitude should be given. If it is not

possible to respond quantitatively, a qualitative response should be provided that contains sufficient detail to clarify the nature or magnitude of impacts. Unacceptable qualitative responses, when used without clarifying information, include vague terms such as "few", "minor," and "occasional." Unacceptable single-word responses also include "inapplicable" and "unknown". If a question in the form is not relevant for a particular regulation, or does not affect a specific group, then that should be explicitly stated. When the specific information requested is not available, a reason should be given. However, any information that is available or known should be provided.

FORMAL PUBLIC REVIEW – 45-DAY NOTICE PERIOD

Starts when the 45-Day Notice is published/mailed. We are required to provide at least a 45-day public comment period to allow the regulated public the opportunity to review and comment on the proposed changes. Written comments can be submitted any time prior to the close of this period.

During this period, ARB staff will prepare for the hearing:

Board Item Summary

Resolution

Formal statements of opinions or determinations adopted by the Board. They also serve as the vehicle/tool by which the Board takes official action.

Personal Agenda Statement

Staff Presentation

Regulations may be modified – Staff's Suggested Modifications

The Board may approve the proposed regulations with modifications. This will typically be changes in response to public comment(s); however, staff may propose changes on its own motion. If oral comments are received during the 45-day comment period, which result in a change to the regulation, the comment should be reduced to writing.

END OF PUBLIC COMMENT PERIOD

Ends at the close of the Board hearing or any extended public comment period, if any.

A 15-day comment period is required if there are other than nonsubstantive modifications to the originally proposed text.

The Administrative Procedure Act (APA) requires public availability of changes to regulations be made available for at least 15 days. Additional comment periods may be allowed.

2

The Executive Officer adopts the regulations after the 15-day comment period(s).

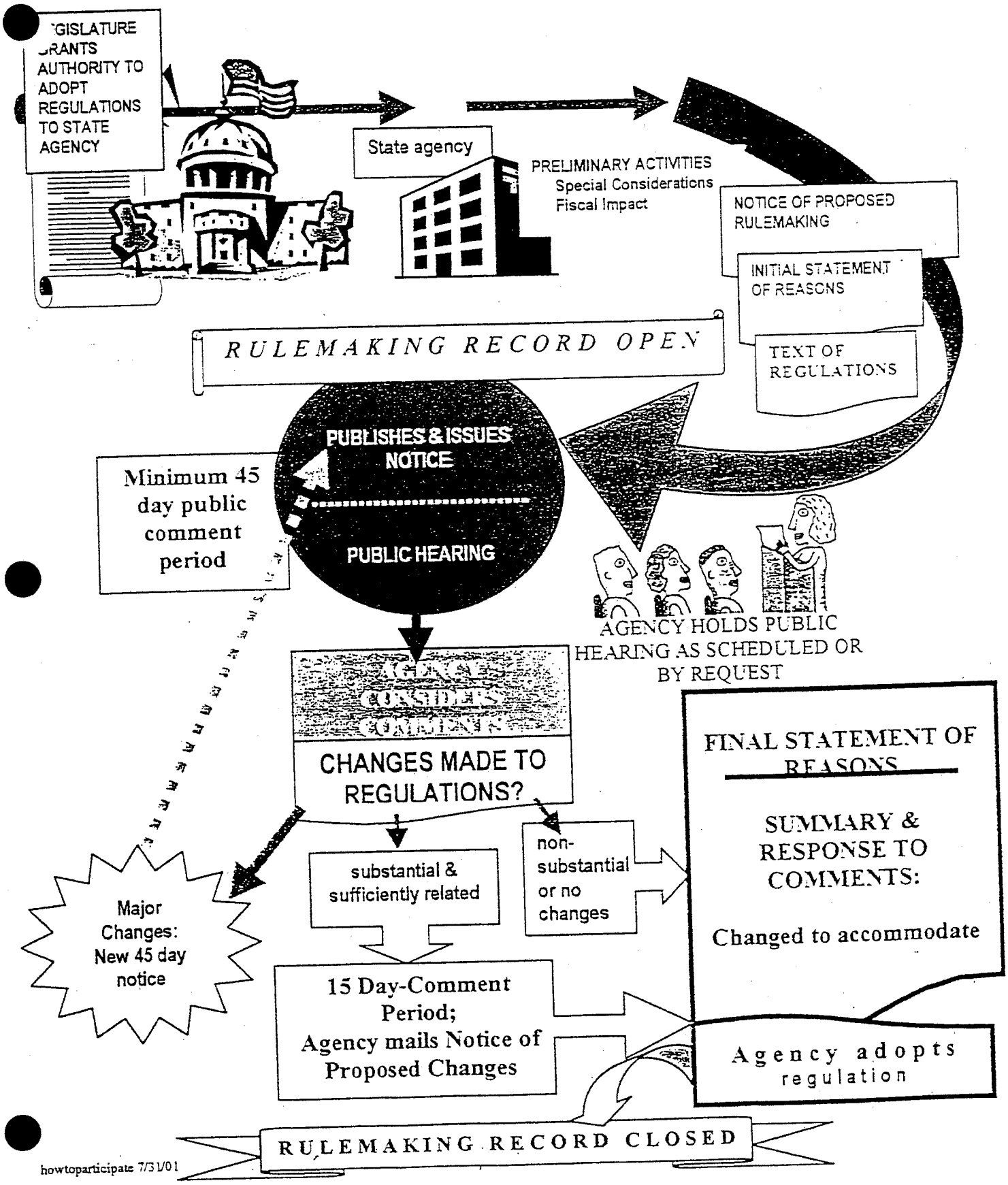
POST BOARD HEARING ACTIVITY to be discussed at a later time.

For more information/samples see: http://www.arb.ca.gov/regact/regact06.htm

OFFICE OF LEGAL AFFAIRS
BOARD ADMINISTRATION & REGULATORY COORDINATION UNIT

Artavia M. Edwards, Manager, 322-6070
Alexa L. Malik, Regulations Coordinator, 322-4011
Amy J. Whiting, Regulations Coordinator, 322-6533
Nuvia Sandoval, Student Assistant to the Regulations Coordinators 445-9560
Lori Andreoni, Clerk of the Board, 322-5594
Julie Teixeira, Student Assistant to the Clerk of the Board 324-0703

The Rulemaking Process

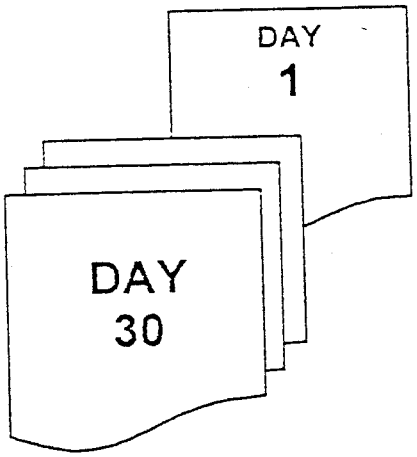


howtoparticipate 7/31/01

OAL REVIEW

State agency must submit rulemaking record within 1 year of notice publication

OAL has 30 WORKING days to review a regulation

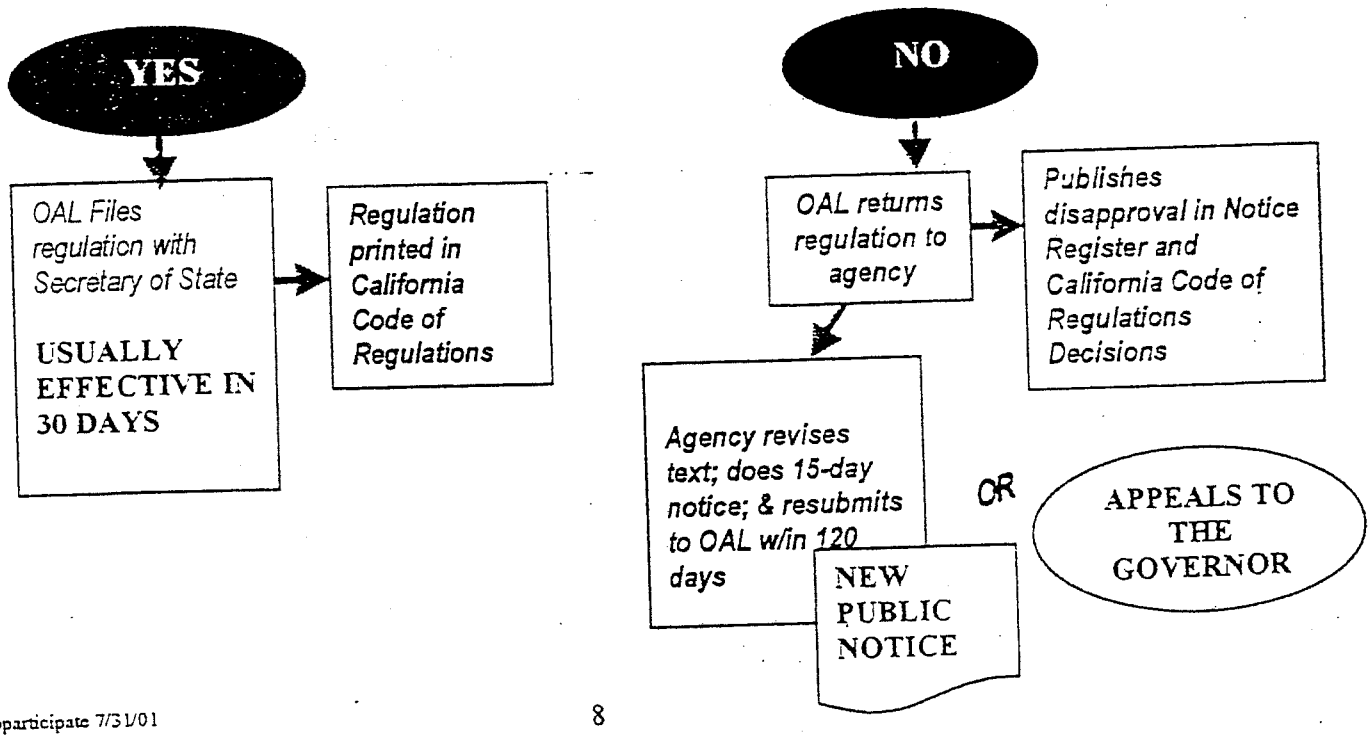


APA STANDARDS:

AUTHORITY
REFERENCE
CONSISTENCY
CLARITY
NON-DUPLICATION
NECESSITY

& PROCEDURAL REQUIREMENTS

DOES THE RULEMAKING SATISFY THE APA?



Writing a regulation

AIR RESOURCES BOARD RULEMAKING PROCESS

LEGISLATURE	Grants rulemaking authority to state agency and enacts statutes requiring regulations.
ARB	Writes proposed regulations Prepares a Staff Report: Initial Statement of Reasons Issues 45-Day Notice to the Public Begins to develop Rulemaking File Considers and responds to public comment Allows additional 15-day comment period Adopts Final Regulation Order Prepares Final Statement of Reasons Files Rulemaking Record with OAL
OAL	Office of Administrative Law (OAL) Reviews regulations within 30 working days Determines compliance with procedural requirements and statutory standards of necessity, authority, clarity, consistency, reference, and non-duplication
APPROVAL	Regulation is filed with the Secretary of State Regulation becomes effective within 30 days Regulation is published in the Official California Code of Regulations
DISAPPROVAL	Regulation returned to the ARB ARB corrects deficiency and re-files with OAL

TABLE OF CONTENTS

Table of Contents

Pre-Regulatory Meeting

Tab 1 Economic and Fiscal Impact Statement (Form 399) & Cal/EPA Summary to the Form 399

Tab 2 Proposed Regulation Order

Tab 3 Staff Report: Initial Statement of Reasons

Tab 4 45-Day Notice of Public Hearing

Tab 5 45-Day Notice "Package"

Tab 6 Resolution

Tab 7 Clerk of the Board

Post-Regulatory Meeting

Tab 8 15-Day Changes

Tab 9 Executive Order

Tab 10 Final Statement of Reasons

Tab 11 Other Final Rulemaking Documents

TAB 1

TEMPLATE

ECONOMIC AND FISCAL IMPACT STATEMENT (FORM 399)

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

(Rev. 2-98)

AGENCY NAME	CONTACT PERSON	TELEPHONE NUMBER
DESCRIPTIVE TITLE FROM *NOTICE REGISTER* OR FORM 400		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking record.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

   ☐ a. Impacts businesses and/or employees

   ☐ b. Impacts small businesses

   ☐ c. Impacts jobs or occupations

   ☐ d. Impacts California competitiveness

   ☐ e. Imposes reporting requirements

   ☐ f. Imposes prescriptive instead of performance standards

   ☐ g. Impacts individuals

   ☐ h. None of the above *(Explain below. Complete the Fiscal Impact Statement as appropriate.)*

   h. *(cont.)*_____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted:_____ Describe the types of businesses *(Include nonprofits)*:_____

   Enter the number or percentage of total businesses impacted that are small businesses:_____

3. Enter the number of businesses that will be created: _____ eliminated: _____

   Explain:_____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional *(list areas)*: _____

5. Enter the number of jobs created:_____ or eliminated:_____ Describe the types of jobs or occupations impacted:_____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

   ☐ Yes ☐ No If yes, explain briefly:_____

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking record.)*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $_____

   a. Initial costs for a small business: $_____ Annual ongoing costs: $_____ Years: ____

   b. Initial costs for a typical business: $_____ Annual ongoing costs: $_____ Years: ____

   c. Initial costs for an individual: $_____ Annual ongoing costs: $_____ Years: ____

   d. Describe other economic costs that may occur:_____

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.):* $_____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: $_____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $_____

C. ESTIMATED BENEFITS *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

at are the total statewide benefits from this regulation over its lifetime? $_____

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $_____	Cost: $_____
Alternative 1:	Benefit: $_____	Cost: $_____
Alternative 2:	Benefit: $_____	Cost: $_____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain: _____

E. MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking record.)*
EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1:_____

Alternative 2:_____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$ _____	Cost-effectiveness ratio: _____
Alternative 1:	$ _____	Cost-effectiveness ratio: _____
Alternative 2:	$ _____	Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in (Item_____,Budget Act of_____) or (Chapter_____,Statutes of_____

☐ b. will be requested in the_____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____.

☐ 2. Additional expenditures of approximately $_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in_____

☐ b. implements the court mandate set forth by the_____

court in the case of_____ vs._____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No._____ at the_____ (DATE) election;

☐ d. is issued only in response to a specific request from the _____

_____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

_____ of the_____ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately $_____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

No fiscal impact exists because this regulation does not affect any local entity or program.

Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

	SIGNATURE	TITLE	
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE			DATE
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER		DATE

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*

EXAMPLE

ECONOMIC AND FISCAL IMPACT STATEMENT (FORM 399)

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Resources Board	Kirk Oliver, Senior Counsel Office of Legal Affairs	(916) 324-4581

DESCRIPTIVE TITLE FROM *NOTICE REGISTER* OR FORM 400	NOTICE FILE NUMBER
Proposed amendments to existing gasoline vapor recovery regulation and certification test procedures ('94011, Title 17, California Code of Regulations)	Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking record.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

- [X] a. Impacts businesses and/or employees
- [X] b. Impacts small businesses
- [ ] c. Impacts jobs or occupations
- [ ] d. Impacts California competitiveness
- [ ] e. Imposes reporting requirements
- [ ] f. Imposes prescriptive instead of performance standards
- [ ] g. Impacts individuals
- [ ] h. None of the above *(Explain below. Complete the Fiscal Impact Statement as appropriate.)*

h. *(cont.)*_____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: up to 5000 (estimate half of the service stations statewide) Describe the types of businesses *(Include nonprofits)*: operators of gasoline dispensing facilities (service stations) with assist Phase II vapor recovery systems

Enter the number or percentage of total businesses impacted that are small businesses: estimated 20%

the number of businesses that will be created: None eliminated: None

in: Will result in cost savings for existing businesses.

4. Indicate the geographic extent of impacts: [X] Statewide [ ] Local or regional *(list areas)*_____

5. Enter the number of jobs created: none or eliminated: none Describe the types of jobs or occupations impacted: No change expected in number of employees at gasoline dispensing facilities due to these modifications.

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

[ ] Yes [X] No If yes, explain briefly:_____

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking record.)*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? No costs – cost savings will occur as existing gasoline dispensers will not need to be replaced with new unihose dispensers.

a. Initial costs for a small business: $ none Annual ongoing costs: $ none Years: ____

b. Initial costs for a typical business: $ none Annual ongoing costs: $ none Years: ____

c. Initial costs for an individual: $ 0 Annual ongoing costs: $ none Years: ____

d. Describe other economic costs that may occur: The amendments provides cost savings for service station operators as dispensers do not need to be replaced until end of their useful life.

2. If multiple industries are impacted, enter the share of total costs for each industry: 100% - operators of gasoline dispensing facilities

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.)*: $ no cost

4. Will this regulation directly impact housing costs? [ ] Yes [X] No If yes, enter the annual dollar cost per housing unit: $ _____ and the number of units: _____

here comparable Federal regulations? ☐ Yes X No Explain the need for State regulation given the existence or absence of Federal

tions: There are no comparable federal regulations that certify gasoline recovery systems for service stations; however, changes to ARB vapor recovery regulations have a national impact. ARB certification is required by most other states mandating the use of vapor recovery equipment at service stations.

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ None

C. ESTIMATED BENEFITS *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit: This regulation modifies the existing Enhanced Vapor Recovery Program (EVR). The proposal will allow service station operators to upgrade to meet one of the EVR standards (ORVR compatibility) without having to replace existing dispensers with new unihose dispensers by April 2005. Unihose dispensers will be required only when the dispensers would normally be replaced at the end of the dispenser useful life or upon service station upgrade. EVR program provides 25 tons per day (TPD) of VOC emissions reductions statewide, thereby reducing ground-level ozone.

2. Are the benefits the result of: X specific statutory requirements, or ___ goals developed by the agency based on broad statutory authority?

   Explain: ARB is mandated to reduce emissions to attain federal ambient air quality standards by 2010, and ARB is authorized to regulate and certify vapor recovery systems at gasoline stations under section 41954 of the Health and Safety Code.

3. What are the total statewide benefits from this regulation over its lifetime? The amendment maintains the emission reductions of the current regulation.

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is specifically required by rulemaking law, but encouraged.)*

1. Alternatives considered and describe them below. If no alternatives were considered, explain why not: Alt. 1: No action or delayed action: If no action is taken or if the action is delayed, then service stations with assist systems will need to purchase new dispensers without significant emission benefits.

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

   Regulation: Benefit: $ maintains emission reductions in existing regulation Cost: $ cost savings of up to $65,000 per station

   Alternative 1: Benefit: $ maintains emission reductions in existing regulation Cost: $ Unnecessary costs up to $65,000 per station

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: ___

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? X Yes ☐ No

   Explain: Proposal is modification of an equipment configuration requirement that supports the performance standard for allowable leak rates of the vapor recovery system.

E. MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking record.)*
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million?

Yes X No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$_____	Cost-effectiveness ratio: _____
Alternative 1:	$_____	Cost-effectiveness ratio: _____
Alternative 2:	$_____	Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 5 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in (Item _____, Budget Act of _____) or (Chapter _____ Statutes of _____

☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____

☐ b. implements the court mandate set forth by the _____ court in the case of _____ vs. _____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ election;

☐ d. is issued only in response to a specific request from the _____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section _____ of the _____ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

X 3. Savings of approximately $ up to $65,000 per station in the current or two subsequent fiscal years.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $ ____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year. (See AOther@ for explanation).

X 2. Savings of approximately $ up to $65,000 per station in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

SIGNATURE	[signature] 5/21/04	TITLE Executive Officer
AGENCY SECRETARY[1] APPROVAL/CONCURRENCE		DATE
DEPARTMENT OF FINANCE[2] APPROVAL/CONCURRENCE		DATE

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399. However, Finance must immediately receive a copy of each STD. 399 submitted to OAL without Finance signature, and Finance may subsequently question the Ano fiscal impact@ finding of a state agency.*

TEMPLATE

CAL/EPA SUMMARY TO THE ECONOMIC AND FISCAL IMPACT STATEMENT

For Internal Use Only

Summary of Form 399 (Economic and Fiscal Impacts)
For Transmittal to Cal/EPA

Summary of Proposal:

Potential Impact on Business:

Costs to State Agencies:

EXAMPLE

CAL/EPA SUMMARY TO THE ECONOMIC AND FISCAL IMPACT STATEMENT

For Internal Use Only

Summary of Form 399 (Economic and Fiscal Impacts)
For Transmittal to Cal/EPA

Summary of Proposal: In March 2000, the Air Resources Board (ARB or Board) approved the enhanced vapor recovery regulations (EVR) for certifying vapor recovery systems installed on gasoline dispensing facilities (service stations). One of the EVR requirements is that vapor recovery systems must be compatible with fueling vehicles with on-board refueling vapor recovery (ORVR) by April 1, 2005. Petroleum marketers commented in January 2004 that conversion to ORVR compatible systems will cost much higher than staff's estimates at the time of the EVR rulemaking as the ORVR compatibility upgrades will trigger replacement of non-unihose dispensers under the current regulation. Staff is proposing to modify the unihose dispenser requirement to allow ORVR compatibility upgrades to remain cost-effective.

Potential Impact on Business: The affected businesses are gasoline dispensing facilities (GDF or service stations). Current estimates put the total number of GDF in California at approximately 9,750. The proposal will allow GDF operators to continue to use non-unihose dispensers for the remainder of their useful life (7 to 10 years). Staff estimates capital fixed cost savings from $2,000 to $65,000 per GDF depending on dispenser type and station size.

Costs to State Agencies: There are no costs to state agencies. State agencies that operate gasoline dispensing facilities (such as General Services, California Highway Patrol, or CalTrans) may realize cost savings in the range described above.

TAB 2

ARB LEGAL OFFICE POLICY ON FORMATTING REGULATIONS BEING ADOPTED OR AMENDED

When ARB regulations are adopted, they become part of Barclays Code of California Regulations, the official publication of California regulations. Barclays has its own way of doing things, and we have to adapt to make sure our regulations are in the most readable form possible when published. While most parties affected by our regulations probably use the version posted on our website, Barclays remains the official source, including in litigation. Moreover, when we amend regulations, the Office of Administrative Law compares our amendments to the version published in Barclays, even if that is different from the hard copy of the regulations in the form we submitted to OAL and OAL approved.

1. ***Subsection numbering and lettering.*** There is a mandatory system imposed by the Office of Administrative Law and Barclays: (a)(1)(A)1.a.(i.)(I. [capitalized roman numeral]). This system should always be used.

2. ***Fonts.*** The title line of each section is shown in bold in Barclays and should be in bold in all ARB regulations. However, Barclays will not print any other part of a regulation. The <u>only</u> distinctive font they will use is italics, and then often only for text that is in italics but not bold.

   Along with subsection headings discussed below, italics is recommended for the column headings in tables and the titles of tables.

3. ***Subsection headings.*** Subsection headings are very useful in providing the reader with a kind of roadmap to the regulation. The use of subsection headings is encouraged wherever they are going to help the reader. It is OK to have subsection headings in some subsections but not others that are not really amenable to a heading.

   Whenever a subheading is used, it should be shown in italics and end with a period. If there is no distinctive font, it can be hard to determine when the sentence starts. Normally, a subheading does not substitute for regulatory text, rather it describes the subject addressed. The text following the subheading will typically be a stand-alone, complete sentence. When italicized headings are used, the Note at the beginning of the Proposed Regulation Order explaining the use of underline and strikeout should also include: "Subheadings are italicized and are intended to be shown in italics in Barclays Code of California Regulations."

4. ***Definitions***

   Always list definitions by number [(1), (2) . . .] rather than letter. If there is a separate section on definitions, have it start out: "(a) For the purposes of [sections __ through __] [or] [this article], the following definitions apply." It is ok to have a subsection (a) but no (b). There are two advantages to numbering definitions. First, additional definitions can be added in alphabetical order without renumbering subsequent definitions, by using decimals [(1), (1.5), (2) . . .]. Second, there is no need to get into a "(aa)" or "(aaa)" situation.

   Always use quotation marks around the term being defined, to highlight the term. Be aware that if the terms are shown in bold in the Final Regulation Order, they will not be in bold in Barclays Code of California Regulations.

5. ***Cover Sheets.*** When a cover sheet (such as "Appendix A") is used in the Staff Report: Initial Statement of Reasons, assume it will not always appear before the first page of the regulatory text in other contexts, such as when the regulatory language is attached to the Resolution, Executive Order, or Form 400 Facesheet for Filing Regulations. Therefore, do not omit anything essential on the first page of text (such as "The amendments are shown in <u>underline</u> to indicate additions . . .") just because you've put it on the cover sheet. In addition, it is preferable for the Proposed Regulation Order to be a separate file rather than part of the Staff Report when posted on the rulemaking page on our website.

6. ***Avoid MSWord "Show Changes" Mode to Show Underline and Strikeout.*** At times, staff has used the MSWord "show changes" mode to show the amendments in underline and strikeout. This should be avoided. First, there is a loss of control when the regulatory text gets reworked. Second, it is extremely difficult if not impossible to show subsequent 15-day changes in double-underline and strikeout. Note that for converting 15-day text to final text, one of the few advantages of MSWord over Wordperfect is that you can use "find and replace" to change fonts – i.e. you can find all double-underline and change it to single underline (after searching for any text that is both underlined and double-strikethrough, and deleting that text).

WHAT IS A REGULATION

The Air Resources Board often must take action to implement, interpret or make specific statutes and other provisions of law, which it administers. Typically such action takes the form of administrative regulations formally adopted by the Board pursuant to the Administrative Procedures Act (APA) and codified in the California Code of Regulations. The Board generally charges to adopt standards, rules and regulations necessary for the proper execution of its powers and duties in accordance with the provisions of the APA, Health and Safety Code section 39601. Also, formal action is often dictated specifically by the statutes being administered. For example, Health and Safety Code section 39662 directs the Board to identify toxic air contaminants by regulation adopted pursuant to the APA.

Not infrequently, however, the ARB is faced with the implementation of a statute, which does not specify that the action is to be taken through the formal adoption of administrative regulations and that does not otherwise clearly indicate the means of proceeding. The California Clean Air Act (Stats. 1988. C. 1568) provides a number of examples. Subsections (a) and (f) of Health and Safety Code section 39607 direct the ARB to establish criteria for designating the attainment or nonattainment status of air basins in the state and to list air quality - related indicators to measure progress toward attainment. Health and Safety Code section 39609 requires that the Board prepare and transmit to the districts for use in developing plans findings based on a modeling feasibility study. In situations such as these, the question arises whether expressions of board policy or other actions taken constitute rulemaking and are therefore subject to the APA. While it is not possible in the abstract to give a definitive answer to this question, a number of principles can be articulated which provide an approach to making the proper determination in specific cases.

The primary consideration is whether the intention is to establish standards, guidelines, policies, or other requirements, which are blinding on the affected parties or future agency action. See Pacific Legal Foundation v. California Coastal Commission (1982) 33 Cal.3d 158. If the action taken is intended to establish enforceable standards or requirements, it must be formally adopted by the Board in accordance with the APA. As stated by the Office of Administrative Law, the agency changed with the administration of the APA.

> The fundamental purpose of the APA is to place certain conditions upon governmental exercise of coercive legal power. That is, before a state agency can compel citizens to conform to a particular agency-created legal requirement, the agency must follow the prescribed (rulemaking) procedures, Determination No. 6 (1986), Docket No. 86-002, p. 15.

The APA defines "regulation" in very broad terms as:

... every rule, regulation, order or standard of general application or the amendment, supplement or revision of any such rule, regulation, order, or standard adopted by an state agency to implement, interpret, or make specific the law enforced or administered by it, or govern its procedure, except one which related only to the internal management of ht estate agency. Gov't Code section 11342 (b).

The APA further provides that:

No state agency shall issue, utilize, enforce or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule, which is a regulation as defined in subdivision (b) of section 11342, unless the guide, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted a s a regulation and filed with the Secretary of State pursuant to this chapter. Gov't Code section 11347.5(a).

Thus the particular form of action or agency characterization of a policy statement is not determinative.

If the agency action or expression of policy is given regulatory effect, the fact that it may be called a "guideline" rather than a rule or regulation, or that it may be contained in a manual or advisory correspondence rather than the California Code of Regulations does not make it any the less a regulation under the APA.

Another issue which is pertinent to the determination of whether an agency expression of policy is a regulation is the scope of application. "Regulation" is defined as a standard of general application. The language does not require that a regulation be applicable statewide; all that is necessary to meet this criterion is that the rule apply to all members of a class, kind or order. Roth v. Department of Veteran Affairs (1980) 110 Cal. App 622. This would include, for example, vehicle manufacturers, air pollution control districts or persons in an air pollution example, vehicle manufacturers, air pollution control districts or persons in an air pollution control district. On the other hand, actions which by their terms are intended to affect a single person or entity, rather than a class of persons, such as actions to grant or deny a license or variances do not fall within the statutory definition of regulation.

Finally, agency restatements of law, which do not implement or add to a statute or other provisions of law are not regulatory, and may be issued without formal rulemaking. OAL Determination No. 4 (1986). Docket No. 85-005, p 12.

The Legislature may, of course, exempt agency rulemaking from the APA procedures. But, such an exemption is rare. To find that such an exemption exists, it must be expressly intended by the legislature and clearly expressed in statute. Gov't Code section 11346; Alta Rates Hospital v. Lackner (1981) 118 Cal. App. 3d 614.

State agency standards of general application, guidelines, criteria, bulletins, manuals, instructions or orders that are regulations and have not been adopted in accordance with the instructions or orders that are regulations and have not been adopted in accordance with the APA, so-called "underground regulations," are not enforceable and are subject to legal challenge. Gov't Code sections 11347.5(a) and 11350. Also, the APA provides a procedure by which interested parties may request (or to OAL may initiate of its own accord) a determination by OAL that a guideline, criterion, manual or other statement of agency policy is an underground regulation. Gov't Code section 11347.5(b). Such a determination by OAL is not directly enforceable, i.e., someone challenging such a regulation would have to file a lawsuit to invalidate the rule, but it would cast a significant cloud on any program it affected.

The factors discussed about must e considered when making a determination whether board or staff action to implement, interpret or make specific a provision of law must be taken in accordance with the APA. These principles should also guide ARB's involvement in the drafting of legislation to avoid questionable situations where appropriate.

GUIDELINES FOR WRITING REGULATIONS

Where do ARB's Regulations Exist?

Titles 13 and 17, of the California Code of Regulations

A. Clarity is Job 1

1. **Use short sentences. The use of headings is very important for as many subsections as possible.**

2. **Use subject and verb, keep together.**

3. **Use ACTIVE rather than PASSIVE voice.**
   a. Example:

SAY: The district shall submit the plan no later than 1/1/91.

NOT: The plan shall be submitted by 1/1/91.

SAY: The manufacturer shall submit the alternative test procedure for approval prior to proceeding.

NOT: The alternative test procedure shall be approved prior to proceeding.

4. **Avoid double negatives.**

5. **Use familiar /concrete terms.**

6. **Use terms consistently.**

7. **Define terms.**
   a. Go through regulations and highlight special or technical terms, if there is any question remaining - - DEFINE
   b. Be aware of other general definitions which may apply

8. **Write user friendly regulations.**
   a. Break regulation into small pieces

   b. Organize requirement/use outline format

   c. Use same terminology throughout

   d. Work with the enforcement staff. Usually, people writing the regulations aren't on the enforcement staff and won't know some important unforeseen details.

9. **Avoid use of permissive or descriptive words.**
   i.e., may, should, will, can, etc. Use mandatory words, i.e., shall, must, etc.

B. **Do not duplicate statutory provisions.**

C. **Consistency with state and federal law.**

D. **Authority and reference citations.**

E. **Hierarchy Structure**

[Title of Regulation]

[Adopt, Amend, Repeal, section[s] [#####], title [17 or 13], California Code of Regulations, to read as follows:

Note: The preexisting regulation text is set forth below in normal type. The amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. **[ALWAYS IDENTIFY THE MODE YOU ARE USING TO SHOW YOUR MODIFICATIONS]**

Section [#####]. **Title of the Section.**

When writing your regulation text . . . . . use the hierarchy format shown below.

(a)
(b)

Revised 03/03

(c)
(d)
(1)
(2)
(3)
(A)
(B)
(C)
1.
2.
3.
a.
b.
c.

And, be sure to include your authority and reference citation for every section modified.

Note: Authority cited: Sections 39600.....Health and Safety Code. Reference: Sections 39002 ..... Health and Safety Code.

AUTHORITY-REFERENCE-CONSISTENCY CLARITY-NONDUPLICATION-NECESSITY

OAL REVIEW FOR COMPLIANCE WITH THE AUTHORITY AND REFERENCE STANDARDS

Each regulation must satisfy the Authority and Reference standards. Complying with the Authority and Reference standards involves a rulemaking agency in two activities: picking appropriate Authority and Reference citations for the note that follows each regulation section to be printed in the California Code of Regulations, and adopting a regulation that is within the scope of the rulemaking power conferred on the agency.

"Authority" means the provision of law which permits or obligates th gency to adopt, amend, or repeal a regulation. Government C Section 11349(b).

"Reference" means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation. Government Code Section 11349(e).

Each regulation section printed in the California Code of Regulations must have a citation to the specific statutory authority under which it was enacted and a citation to the specific statute or other provision of law that the regulation is implementing, interpreting, or making specific. As an example the Authority and Reference Citations for Section 55 of Title 1 of the California Code of Regulations reads as follows: "Authority cited: Sections 11342.4 and 11349.1, Government Code. Reference: Sections 11346.1, 11349.1, 11349.3 and 11349.6, Government Code."

The statutes and other provisions of law cited in Authority and Reference notes are the agency's interpretation of its power to adopt a particular regulation. A rulemaking agency initially selects Authority and Reference citations when it is drafting the proposed regulation text and may revise and refine the citations during

the course of a rulemaking proceeding. The goal is to have accurate, precise, and complete Authority and Reference citations printed in the California Code of Regulations with each regulation.

EXPRESS AND IMPLIED RULEMAKING AUTHORITY A statutory delegation of rulemaking authority may be either express or implied. In an express delegation, the statute expressly states that the state agency may or shall "adopt rules and regulations necessary to carry out this chapter" or some variation on that phrase. Thus, an express delegation *expressly* specifies that regulations shall or may be adopted by the agency.

In contrast, in an implied delegation of rulemaking authority, the applicable statutes do not expressly state that the agency may or shall adopt rules or regulations. Instead, a statute expressly gives a duty or power to a specified state agency, but makes *no* express mention of the authority to adopt rules or regulations. In similar circumstances, courts tell us that agencies which have expressly been given a duty or power by statute have implicitly been delegated the authority to adopt those rules and regulations necessary for the due and efficient exercise of a duty or power expressly granted.

OAL REVIEW FOR AUTHORITY OAL reviews regulations to ensure that they are authorized under controlling statutes. The statutes (and other provisions of law) the agency cites as Authority and Reference identify the sources of the rulemaking power that the agency is drawing on in promulgating a particular regulation. A regulation that is not within the scope of an agency's express or implied rulemaking authority is void and cannot become effective.

> **Each regulation adopted, to be effective, shall be *within the scope of authority conferred* and in accordance with standards prescribed by other provisions of law.**
> **Government Code Section 11342.1.**

In determining whether a rulemaking agency is empowered to adopt a particular regulation, OAL applies the same analytical approach employed by the California Supreme Court and the California Court of Appeal, as evidenced in published opinions of those courts.

JUDICIAL REVIEW OF AUTHORITY TO ADOPT A PARTICULAR REGULATION
When reviewing a quasi-legislative regulation, courts consider whether the regulation is within the scope of the authority conferred, essentially a question of the validity of an agency's statutory interpretation. The courts must determine whether the rulemaking agency has exercised its authority within the bounds established by statute.

Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute. Government Code Section 11342.2.

The courts apply the following principle to determine whether a rulemaking agency has exercised its authority within the bounds established by statute.

An administrative regulation may not alter or amend a statute or enlarge or impair its scope. Such a regulation is void and must be struck down by a court.

In deciding whether a regulation alters, amends, enlarges, or restricts a statute, or merely implements, interprets, makes specific, or otherwise gives effect to a statute often a court must interpret the meaning of the statute. In so doing, courts apply principles of statutory interpretation developed primarily in case law. It examines the language of the statute, and may consider appropriate legislative history materials to ascertain the will of the Legislature so as to effectuate the purpose of the statute. In making this determination, a court may consider, but is not bound by the rulemaking agency's interpretation of the statute at issue. As the California Supreme Court explained in *Yamaha v State Board of Equalization*, "Whether judicial deference to an agency's interpretation is appropriate and, if so, its extent- the 'weight' it should be given is ... fundamentally situational." The court identified factors to be considered relating to (1) the possible interpretive advantage of the agency and (2) to the likelihood that the agency is correct and suggested the following. "The deference due an agency interpretation ... will depend *upon the*

thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.'"

OAL REVIEW FOR COMPLIANCE WITH THE CONSISTENCY STANDARD

Each regulation must satisfy the Consistency standard. In reviewing for compliance with the Consistency standard, OAL uses the same analytical approach used in judicial review of a regulation. This approach includes the principles discussed above regarding deference to an agency's interpretation of a statute.

> **"Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law. Government Code, Section 11349(d).**

Commenters on proposed regulations often comment that a proposed regulation is inconsistent with a statute because it requires certain tasks not specifically set out in statute. This situation does not present a Consistency problem so long as the tasks specified in the regulation are reasonably designed to aid a statutory objective, do not conflict with or contradict (or alter, amend, enlarge or restrict) any statutory provision.

In other words, no conflict is presented if the statute says "Thou shall do A" and the regulation says "Thou shall do B," if one can do both A and B, and B is reasonably necessary to effectuate the purpose of A, and does not alter, amend, enlarge, or restrict A. In contrast, a conflict is presented if the statute says "Thou shall do A" and the regulation says "Thou shall not do A."

OAL REVIEW FOR COMPLIANCE WITH THE CLARITY STANDARD

Each regulation must satisfy the Clarity standard. Regulations are frequently unclear and unnecessarily complex, even when the technical nature of the subject matter is taken into account. They are often confusing to persons who must comply with them. The performance goal for drafting a regulation is the following. A rulemaking agency must draft regulation text in plain, straightforward language avoiding technical terms as much as possible using

coherent and easily readable language. The measure of compliance with the performance goal is the Clarity standard. OAL has a duty to ensure that each regulation can be easily understood.

> **Clarity means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them. Government Code Sec. 11349(c).**

> Persons presumed to be "directly affected" by a regulation are those who: (a) must comply with the regulation; or (b) must enforce the regulation; or (c) derive a benefit from the enforcement of the regulation that is not common to the public in general; or (d) incur from the enforcement of the regulation a detriment that is not common to the public in general. California Code of Regulations, Title 1. Sec. 16(b).

Situations in which OAL may presume a regulation is unclear.

1. The regulation has more than one meaning.

2. The language of the regulation conflicts with the description of its effect.

3. The regulation uses an undefined term which does not have a meaning generally familiar to those who are "directly affected."

4. The regulation uses language incorrectly, including incorrect spelling, grammar, or punctuation.

5. The regulation presents information in a format not readily understandable.

6. The regulation does not use citations which clearly identify published material cited in the regulation.

The following regulation drafting tips are drawn from Drafting Legislation and Rules in Plain English, by Robert J. Martineau, (West, 1991) pp 65-105.

1. Use only necessary words.
2. Use common words.
3. Avoid lawyerisms.
4. Be consistent.
5. Use short sentences.
6. Arrange words properly.
7. Tabulate to simplify.
9. Look for omissions and ambiguities.
10. Think through common application situations.

OAL REVIEW FOR COMPLIANCE WITH THE NONDUPLICATION STANDARD

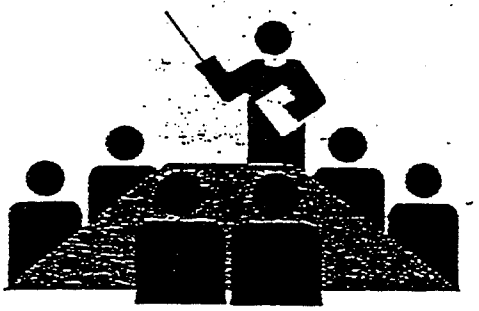
Nonduplication means a regulation does not serve the same purpose as a state or federal statute or another regulation.
Government Code Section 11349(f)

Each regulation must satisfy the Nonduplication standard. A regulation that repeats or rephrases a statute or regulation "serves the same purpose" as that statute or regulation. Any overlapped or duplicated statute or regulation must be identified and the overlap or duplication must be justified. Citing the overlapped or duplicated statute or regulation in the authority or reference note satisfies the identification requirement. Overlap or duplication is justified if information in the rulemaking record establishes that the overlap or duplication is necessary to satisfy the Clarity standard.

OAL REVIEW FOR COMPLIANCE WITH THE NECESSITY STANDARD

An agency conducting a rulemaking action under the APA must compile a complete record of a rulemaking proceeding including all of the evidence and other material upon which a regulation is based.

In the record of the rulemaking proceeding (record), the agency must state the specific purpose of each regulatory provision and explain why the provision is reasonably necessary to accomplish that purpose. It must also identify and include in the record any materials relied upon in proposing the provision and any other information, statement, report, or data the agency is required by law to consider or prepare in connection with the rulemaking action. The agency does this first in the initial statement of reasons. During the rulemaking proceeding, the agency may add new material on which it relies by notifying the public and providing a 15 day opportunity to comment on the proposal in light of the new material relied upon. The agency then states in the final statement of reasons what material has been added during the proceeding.



In addition, during the rulemaking, the public may submit recommendations or objections to the proposed regulation and submit material, including studies, reports, data, etc. for consideration by the agency and inclusion in the record. In the final statement of reasons, the agency must respond to all relevant input and explain a reason for rejecting each recommendation or objection directed at the proposed action, or explain how the proposal has been amended to accommodate the input. All of these materials constitute the record.

At the end of a rulemaking proceeding, the rulemaking agency must certify under penalty of perjury that the rulemaking record is complete and closed. The rulemaking agency then submits the complete record to OAL for review. In reviewing for compliance with the Necessity standard, OAL is limited to applicable provisions of law and the record of the rulemaking proceeding. Once OAL review is complete and the record is returned to the rulemaking agency, the file is the agency's permanent record of the rulemaking proceeding. No item in the file may be removed, altered or destroyed. Any judicial review of the regulation is based only on the evidence included in the rulemaking record.

What must be addressed in the record? Each regulation must satisfy the Necessity standard. OAL reviews the rulemaking record to ensure that each provision of regulation text that is adopted, amended, or repealed satisfies the Necessity standard.

> **"Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to facts, studies, and expert opinion. Government Code Section 11349(a).**

What is "substantial evidence"? The "substantial evidence" standard used by OAL is the same as the "substantial evidence" standard used in judicial review of regulations. The following is a definition of "substantial evidence" drawn from the legislative history of the Necessity standard.

> **Such evidence as a reasonable person reasoning from the evidence would accept as adequate to support a conclusion.**

A number of principles and limitations are involved in the application of this standard. Clearly, "substantial evidence" is more than "any evidence," but is nowhere near "proof beyond a reasonable doubt." A key characteristic of the standard is its deferential nature. The "substantial evidence" test was added to the Necessity standard by Chapter 1573, Statutes of 1982 (AB 2820). The following letter from Assemblyman Leo McCarthy to Speaker Willie Brown summarized the "substantial evidence" test as used in the Necessity standard:

"The principal addition AB 2820 makes to what we approved in AB 1111 in 1979 is a specific level of evidence that an agency must meet to demonstrate the need for a particular regulation. The standard is substantial evidence taking the record as a whole into account.

"That standard is a familiar one in the law and has been given a definite interpretation by the courts in the past. Our intent is that an agency must include in the record facts, studies or testimony that are specific, relevant, reasonable,

credible and of solid value, that together with those inferences that can rationally be drawn from such facts, studies or testimony, would lead a reasonable mind to accept as sufficient support for the conclusion that the particular regulation is necessary. Suspicion, surmises, speculation, feelings, or incredible evidence is not substantial.

"Such a standard permits necessity to be demonstrated even if another decision could also be reached. This standard does not mean that the particular regulation necessarily be 'right' or the best decision given the evidence in the record, but that it be a reasonable and rational choice. It does not mean that the only decision permitted is one that OAL or a court would make if they were making the initial decision. It does not negate the function of an agency to choose between two conflicting, supportable views.

"The proposed standard requires the assessment to determine necessity to be made taking into account the totality of the record. That means the standard is not satisfied simply by isolating those facts that support the conclusion of the agency. Whatever in the record that refutes the supporting evidence or that fairly detracts from the agency's conclusion must also be taken into account. In other words, the supporting evidence must still be substantial when viewed in light of the entire record." (Legislature of California, Assembly Daily Journal, 208th Sess. 13,663-34 (1982).)

CITATIONS

Armistead v. State Personnel Board (1978) 22 Cal.3d 198, 149 Cal.Rptr.1

Engelmann v. State Board of Education (1991) 2 Cal.APP.4th 47, 3 Cal.Rptr.2d 264

Grier v. Kizer (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244

Poshman v. Dumke (1973) 31 Cal.App.3d 932, 107 Cal.Rptr. 596

State Water Resources Control Board v. OAL (1993) 12 Cal.App.4th 697, 16 Cal.Rptr.2d 25

Stoneham v. Rushen (*Stoneham I*) (1982) 137 Cal.App.3d 729, 188 Cal.Rptr. 130

Yamaha v. State Board of Equalization (1998) 19 Cal.4th 1, 78 Cal.Rptr.2d

STATUTES REGARDING
PRESCRIPTIVE VS. PERFORMANCE STANDARDS

"The imposition of prescriptive standards upon private persons and entities through regulations where the establishment of performance standards could reasonably be expect to produce the same result has placed an unnecessary burden on California citizens and discouraged innovation, research, and development of improved means of achieving desirable social goals."

Government Code section 11340 (d)

"...It is the intent of the Legislature that agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process."

Government Code section 11340.1

"(a) Performance standard means a regulation that describes an objective with the criteria stated for achieving the objective.

Government Code section 11342.570

(b) 'Prescriptive standard' means a regulation that specifies the sole means of compliance with a performance standard by specific actions, measurements, or other quantifiable means."

Government Code section 11342.590

"The initial statement [of reasons] . . . shall also include . . . the following:

A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

Government Code section 11346.2(b)(3)(A)

TEMPLATE

[PROPOSED] REGULATION ORDER

[PROPOSED] REGULATION ORDER

** New Regulation **

1. Adopt new section _____, title[s] _____ [and _____], California Code of Regulations, to read as follows:

[*Section* #####]. Use italics to indicate proposed new text.

NOTE: Authority cited: section*[s] [#####] [,#####] [,_____* **and** ____], Health and Safety Code. Reference: section*[s] [#####] [,#####] [,_____* **and** ____], Health and Safety Code *[; section ____, [Vehicle Code].*

** As an alternative, a new regulation may be shown in the following manner **

2. Adopt new section _____, title[s] _____ [and _____], California Code of Regulations, to read as follows:
(Note: The entire text of section ____ set forth below is new language proposed to be added to the California Code of Regulations.)

[*Section* #####]. The proposed regulation text will be shown in normal type.

NOTE: Authority cited: section[s] [#####] [,#####] [,_____ **and** ____], Health and Safety Code. Reference: section[s] [#####] [,#####] [,_____ **and** ____], Health and Safety Code [; section ____, **[Vehicle Code].**

** Amendments to Existing Regulations **

3. Amend section __, title[s] _____ [and _____], California Code of Regulations, to read as follows:

[*Section* #####]. If the proposed amendment involves the addition of only a few words, underline may be used to indicate the proposed additions. Use ~~strikeout~~ to indicate proposed deletions from existing regulatory text.

NOTE: Authority cited: sections [#####~~, and~~ ##### **and** #####], Health and Safety Code. Reference: section[s] [#####] [,#####] [, _____ and _____], Health and Safety Code [; section _____, [Vehicle Code].

**** As an alternative, amendments may be shown in the following manner ****

4. Amend section __, title[s] _____ **[and ____]**, California Code of Regulations, to read as follows:

[*Section #####*]. *If the proposed amendment involves the addition of large blocks of text, use italics to indicate proposed additions to existing regulatory text.* Use ~~strikeout~~ to indicate proposed deletions from existing regulatory text.

NOTE: Authority cited: sections [~~#####~~ ~~, and~~ ~~#####~~ *and ~~#####~~*], Health and Safety Code. Reference: section[s] [~~#####~~] [,~~#####~~] [,_____ **and** ____], Health and Safety Code [; section ____, **[Vehicle Code]**.

**** Incorporation by Reference ****

5. Adopt section ___, title[s] _____ **[and ____]**, California Code of Regulations, to read as follows:

[Section ~~#####~~]. Applicants shall comply with the requirements set forth in ["Outside Document,"] [if only a portion of the document is to be incorporated, identify page, section, chapter, etc., where incorporated requirements are found,] published by *[Publisher] [date]*, which is incorporated by reference herein. *[If the document is not available from a commonly known source or ARB, describe where/how copy of incorporated document can be obtained.]*

NOTE: Authority cited: section[s] [~~#####~~] [,~~#####~~] [,_____ **and** ____], Health and Safety Code. Reference: section[s] [~~#####~~] [,~~#####~~] [,_____ **and** ____], Health and Safety Code [; section ____, **[Vehicle Code]**.

6. Amend section __, title[s] _____ **[and ____]**, California Code of Regulations, to read as follows:

[*Section ~~#####~~*]. The test procedures shall be as set forth in "Test Procedure," adopted January 1, 1968, as amended [date[1]], effective [date[2]], which is incorporated by reference herein.

NOTE: Authority cited: section[s] [~~#####~~] [,~~#####~~] [,_____ **and** ____], Health and Safety Code. Reference: section[s] [~~#####~~] [,~~#####~~] [,_____ **and** ____], Health and Safety Code [; section ____, **[Vehicle Code]**.

Revised 03/03

** Repeal of Existing Regulation **

7. Repeal section _, title[s] _____ [and ____], California Code of Regulations, to read as follows:

~~[*Section #####*]. Use strikeout to indicate the regulatory text proposed to be repealed.~~

~~NOTE: Authority cited: section[s] [#####] [,#####] [,_____ and ____], Health and Safety Code. Reference: section[s] [#####] [,#####] [,_____ and ____], Health and Safety Code [; section ____, [Vehicle Code].~~

** As an alternative, repeals may be shown in the following manner **

8. Repeal section _, title[s] _____ [and ____], California Code of Regulations, to read as follows:

[*Section* ~~#####~~]. Use a large "X" or "/" through the entire block or page of regulatory text to be repealed. This method is appropriate where many pages of regulations are to be repealed because the text to be repealed can be copied and need not be retyped.

NOTE: Authority cited: section[s] [~~#####~~] [,~~#####~~] [,_____ and ____], Health and Safety Code. Reference: section[s] [~~#####~~] [,~~#####~~] [,_____ and ____], Health and Safety Code [; section ____, [Vehicle Code].

EXAMPLE

[PROPOSED] REGULATION ORDER

PROPOSED REGULATION ORDER

PROPOSED 2003 AMENDMENTS TO THE CALIFORNIA ZERO EMISSION VEHICLE REGULATION

Note: Set forth below are the proposed 2003 amendments to the California zero emission vehicle (ZEV) regulation. The text of the proposed amendments is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

1. Amend California Code of Regulations, title 13, section 1962 to read as follows:

§ 1962. Zero-Emission Vehicle Standards for ~~2003~~ 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

(a) *ZEV Emission Standard.* The Executive Officer shall certify new ~~2003~~ 2005 and subsequent model passenger cars, light-duty trucks and medium-duty vehicles as ZEVs if the vehicles produce zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any and all possible operational modes and conditions. Incorporation of a fuel-fired heater shall not preclude a vehicle from being certified as a ZEV provided: (1) the fuel-fired heater cannot be operated at ambient temperatures above 40°F, (2) the heater is demonstrated to have zero fuel evaporative emissions under any and all possible operational modes and conditions, and (3) the emissions of any pollutant from the fuel-fired heater when operated at an ambient temperature between 68°F and 86°F do not exceed the emission standard for that pollutant for a ULEV under section 1961(a)(1).

A vehicle that would meet the emissions standards for a ZEV except that it uses a fuel-fired heater that can be operated at ambient temperatures above 40°F, that cannot be demonstrated to have zero fuel evaporative emissions under any and all possible operation modes and conditions, or that has emissions of any pollutant exceeding the emission standard for that pollutant for a ULEV under section 1961(a)(1), shall be certified based on the emission level of the fuel-fired heater.

(b) *Percentage ZEV Requirements.*

(1) *General Percentage ZEV Requirement.*

(A) *Basic Requirement.* The minimum percentage ZEV requirement for each manufacturer is listed in the table below as the percentage of the PCs and LDT1s, and LDT2s to the extent required by section (b)(1)(C), produced by the manufacturer and delivered for sale in California that must be ZEVs, subject to the conditions in this section 1962(b).

Model Years	*Minimum ZEV Requirement*
~~2003~~ 2005 through 2008	10 percent
2009 through 2011	11 percent
2012 through 2014	12 percent
2015 through 2017	14 percent
2018 and subsequent	16 percent

(B) *Calculating the Number of Vehicles to Which the Percentage ZEV Requirement is Applied.* A manufacturer's volume of PCs and LDT1s produced and delivered for sale in California will be averaged for the 1997, 1998, and 1999 model years to determine the California PC and LDT1 production volume for the model year ~~2003 to~~ 2005 ZEV requirements. For subsequent three-year periods following model year~~s 2003 to~~ 2005, a manufacturer's California production volume of PCs and LDT1s, and LDT2s as applicable, will be based on a three-year average of the manufacturer's volume of PCs and LDT1s, and LDT2s as applicable, produced and delivered for sale in California in the prior fourth, fifth and sixth years (e.g. 2006 to 2008 model-year ZEV requirements will be based on California production volumes of PCs and LDT1s, and LDT2s as applicable, for 2000 to 2002 model years). This production averaging is used to determine ZEV requirements only, and has no effect on a manufacturer's size determination. As an alternative to the three year averaging of prior year production described above, a manufacturer may during the first model year of a three year period elect to base its ZEV obligation on the number of PCs and LDT1s, and LDT2s to the extent required by section (b)(1)(C), produced by the manufacturer and delivered for sale in California that same year. If a manufacturer elects to use this method it must be used for each year of the three-year period. In applying the ZEV requirement, a PC, LDT1, or LDT2 (beginning in the 2007 model year) that is produced by a small volume manufacturer, but is marketed in California by another manufacturer under the other manufacturer's nameplate, shall be treated as having been produced by the marketing manufacturer.

(C) *Phase-in of ZEV Requirements for LDT2s.* Beginning with the ZEV requirements for the 2007 model year, a manufacturer's LDT2 production shall be included in determining the manufacturer's overall ZEV requirement under section (b)(1)(A) in the increasing percentages shown the table below.

2007	*2008*	*2009*	*2010*	*2011*	*2012+*
17%	34%	51%	68%	85%	100%

(D) *Exclusion of ZEVs in determining a manufacturer's sales volume.* In calculating for purposes of sections 1962(b)(1)(B) and 1962(b)(1)(C) the volume of PCs, LDT1s and LDT2s a manufacturer has produced and delivered for sale in California, the manufacturer shall exclude the number of ZEVs produced by the manufacturer, or by a subsidiary in which the manufacturer has a greater than 50% ownership interest, and delivered for sale in California.

(2) *Requirements for Large Volume, Intermediate Volume, Independent Low Volume, and Small Volume Manufacturers.*

(A) *Large Volume Manufacturers.*

1. *Model Years 2005-2008.* In ~~2003~~ 2005 through 2008 model years, a large-volume manufacturer must meet at least ~~20%~~ 10% of its ZEV requirement with ZEVs or ZEV credits generated by such vehicles, and at least another ~~20%~~ 30% with ZEVs, advanced technology PZEVs, or credits generated by such vehicles. The remainder of the large-volume manufacturer's ZEV requirement may be met using PZEVs or credits generated by such vehicles.

2. *Model Years 2009-2011.* In 2009 through 2011 model years, the maximum portion of a large volume manufacturer's 11% percentage ZEV requirement that may be satisfied by 0.2 allowance PZEVs, or credits generated by such vehicles, is limited to 6% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume. The maximum portion of the ZEV requirement that may be satisfied by advanced technology PZEVs, or credits generated by such vehicles, is limited to 3.75% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume. The 1.25% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume that remains must be met only with ZEVs or credits generated by ZEVs.

3. *Model Years 2012 and subsequent.* As the ZEV requirement increases over time (~~from 10%~~ from 12% in model year ~~2003~~ 2012 to 16% in model years 2018 and subsequent), the maximum portion of ~~the~~ a large volume manufacturer's percentage ZEV requirement that may be satisfied by 0.2 allowance PZEVs, or credits generated by such vehicles, is limited to 6% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume; advanced technology PZEVs or credits generated by such vehicles may be used to meet up to one-half of the manufacturer's remaining ZEV requirement.

(B) *Intermediate Volume Manufacturers.* In ~~2003~~ 2005 and subsequent model years, an intermediate volume manufacturer may meet its ZEV requirement with up to 100 percent partial ZEV allowance vehicles or credits generated by such vehicles.

(C) *Small Volume Manufacturers and Independent Low Volume Manufacturers.* A small volume manufacturer or an independent low volume manufacturer is not required to meet the percentage ZEV requirements. However, a small volume manufacturer or an independent low volume manufacturer may earn and market credits for the ZEVs or PZEVs it produces and delivers for sale in California.

(3) *Counting ZEVs and PZEVs in Fleet Average NMOG Calculations.* For the purposes of calculating a manufacturer's fleet average NMOG value and NMOG credits under sections 1960.1(g)(2) and 1961(b) and (c), a vehicle certified as a ZEV is counted as one ZEV, and a PZEV is counted as one SULEV certified to the 150,000 mile standards regardless of any ZEV or PZEV multipliers.

(4) *Implementation Prior to ~~2003~~ 2005 Model Year.* Prior to the ~~2003~~ 2005 model year, a manufacturer that voluntarily produces vehicles meeting the ZEV emission standards

applicable to ~~2003~~ 2005 and subsequent model year vehicles may certify the vehicles to those standards and requirements for purposes of calculating fleet average NMOG exhaust emission values and NMOG credits under sections 1960.1(g)(2) and 1961(b) and (c), and for calculating ZEV credits as set forth in section 1962(d).

(5) *Changes in Small Volume, Independent Low Volume, and Intermediate Volume Manufacturer Status.*

(A) *Increases in California Production Volume.* In 2003 and subsequent model years, if a small volume manufacturer's average California production volume exceeds 4,500 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, or if an independent low volume manufacturer's average California production volume exceeds 10,000 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, or if an intermediate volume manufacturer's average California production volume exceeds 60,000 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, the manufacturer shall no longer be treated as a small volume, independent low volume, or intermediate volume manufacturer, as applicable, and shall comply with the ZEV requirements for independent low volume, intermediate volume or large volume manufacturers, as applicable, beginning with the sixth model year after the last of the three consecutive model years. The lead time shall be four rather than six years where a manufacturer ceases to be a small or intermediate volume manufacturer in the 2003 or subsequent years due to the aggregation requirements in majority ownership situations, except that if the majority ownership in the manufacturer was acquired prior to the 2001 model year, the manufacturer must comply with the stepped-up ZEV requirements starting in the 2010 model year.

(B) *Decreases in California Production Volume.* If a manufacturer's average California production volume falls below 4,500, 10,000 or 60,000 units of new PCs, LDTs, and MDVs, as applicable, based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, the manufacturer shall be treated as a small volume, independent low volume, or intermediate volume manufacturer, as applicable, and shall be subject to the requirements for a small volume, independent low volume, or intermediate volume manufacturer beginning with the next model year. In determining small volume manufacturer status, vehicles produced by one manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as part of the California production volume of the sales of the marketing manufacturer.

(C) *Calculating California Production Volume in Change of Ownership Situations.* Where a manufacturer experiences a change in ownership in a particular model year, the change will affect application of the aggregation requirements on the manufacturer starting with the next model year. The manufacturer's small or intermediate volume manufacturer status for the next model year shall be based on the average California production volume in the three previous consecutive model years of those manufacturers whose production volumes must be aggregated for that next model year. For example, where a change of ownership during the 2004 model year

results in a requirement that the production volume of Manufacturer A be aggregated with the production volume of Manufacturer B, Manufacturer A's status for the 2005 model year will be based on the production volumes of Manufacturers A and B in the 2002-2004 model years. Where the production volume of Manufacturer A must be aggregated with the production volumes of Manufacturers B and C for the 2004 model year, and during that model year a change in ownership eliminates the requirement that Manufacturer B's production volume be aggregated with Manufacturer A's, Manufacturer A's status for the 2005 model year will be based on the production volumes of Manufacturers A and C in the 2002-2004 model years. In either case, the lead time provisions in section 1962(b)(5)(A) and (B) will apply.

(c) *Partial ZEV Allowance Vehicles (PZEVs).*

(1) *Introduction.* This section 1962(c) sets forth the criteria for identifying vehicles delivered for sale in California as PZEVs. A PZEV is a vehicle that cannot be certified as a ZEV but qualifies for a PZEV allowance of at least 0.2.

(2) *Baseline PZEV Allowance.* In order for a vehicle to be eligible to receive a PZEV allowance, the manufacturer must demonstrate compliance with all of the following requirements. A qualifying vehicle will receive a baseline PZEV allowance of 0.2.

(A) *SULEV Standards.* Certify the vehicle to the 150,000-mile SULEV exhaust emission standards for PCs and LDTs in section 1961(a)(1) (for model years 2003 through 2006, existing SULEV intermediate in-use compliance standards shall apply to all PZEVs). Bi-fuel, fuel-flexible and dual-fuel vehicles must certify to the applicable 150,000-mile SULEV exhaust emission standards when operating on both fuels;

(B) *Evaporative Emissions.* Certify the vehicle to the evaporative emission standards in section 1976(b)(1)(E) ("zero" evaporative emissions standards);

(C) *OBD.* Certify that the vehicle will meet the applicable on-board diagnostic requirements in section 1968.1 for 150,000 miles; and

(D) *Extended Warranty.* Extend the performance and defects warranty period set forth in sections 2037(b)(2) and 2038(b)(2) to 15 years or 150,000 miles, whichever occurs first.~~, For HEVs that are advanced technology PZEVs, the traction battery must be included as a warranty item.~~ except that the time period is to be 10 years for a zero emission energy storage device used for traction power (such as a battery, an ultracapacitor, or a hydraulic, pneumatic and hydrogen storage device) other than the device's on-board diagnostic elements.

(3) *Zero-Emission VMT PZEV Allowance.*

(A) *Calculation of Zero Emission VMT Allowance.* A vehicle that meets the requirements of section 1962(c)(2) and has zero-emission vehicle miles traveled ("VMT") capability will generate an additional zero emission VMT PZEV allowance calculated as follows:

Urban All-Electric Range	*Zero-emission VMT Allowance*
< 10 miles	0.0
10 miles to ~~120~~ 90 miles	(~~10~~ 33.8 + [0.5 x Urban AER])/35
>~~120~~ 90 miles	~~2.0~~ 2.25

The urban all-electric range shall be determined in accordance with section E.3.(2)(a) of the "California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," incorporated by reference in section 1962(h).

(B) *Alternative Procedures.* As an alternative to determining the zero-emission VMT allowance in accordance with the preceding section 1962(c)(3)(A), a manufacturer may submit for Executive Officer approval an alternative procedure for determining the zero-emission VMT potential of the vehicle as a percent of total VMT, along with an engineering evaluation that adequately substantiates the zero-emission VMT determination. For example, an alternative procedure may provide that a vehicle with zero-emissions of one regulated pollutant (e.g. NOx) and not another (e.g. NMOG) will qualify for a zero-emission VMT allowance of one-half that of a vehicle with zero emissions of all regulated pollutant.

(C) *Additional Allowances for Qualifying HEVs.* The Executive Officer shall approve an additional 0.1 zero-emission VMT partial ZEV allowance for an HEV with an all-electric range if the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer that the HEV is equipped with software and/or other strategies that would promote maximum use of off-vehicle charging, and that the strategies employed are reasonably reliable and tamper-proof.

(4) *PZEV Allowance for Advanced ZEV Componentry.* A vehicle that meets the requirements of section 1962(c)(2) but does not qualify for any zero-emission VMT PZEV allowance under section 1962(c)(3) may qualify for an advanced componentry PZEV allowance as provided in this section 1962(c)(4).

(A) *Use of High Pressure Gaseous Fuel or Hydrogen Storage System.* A vehicle equipped with a high pressure gaseous fuel storage system capable of refueling at 3600 pounds per square inch or more and operating exclusively on this gaseous fuel shall qualify for an advanced componentry PZEV allowance of 0.1. A vehicle fueled exclusively by hydrogen stored in a high pressure system capable of refueling at 3600 pounds per square inch or more, or stored in nongaseous form, shall also qualify for an advanced componentry PZEV allowance of ~~0.1~~ 0.2.

(B) *Other Advanced ZEV Componentry.*

1. *Qualification for Allowance.* A vehicle shall qualify for an additional advanced componentry allowance of 0.4 in the 2003 through 2011 model years, and 0.35 in the 2012 and subsequent model years, if the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer that the vehicle is equipped with advanced ZEV componentry such as an advanced battery integral to the operation of the vehicle power train or an electric power train and qualifies under one of the two methods listed below. ~~The allowance earned by a vehicle shall be calculated according to one of the following methods, as elected by the manufacturer:~~

a. The maximum system power output available from the electrical storage device divided by the sum of the electrical storage device and the SAE net power of the heat engine is greater than 13%; or

b. The maximum system power output available from the electrical storage device divided by the sum of the electrical storage device and the SAE net power of the heat engine is greater than 8% and the maximum power rating of the zero emission drive system is at least 10 kilowatts.

2. *Severability.* In the event that one of the two methods in section 1962(c)(4)(B)1. is found invalid, the remainder of section 1962, including section 1962(c)(4)(B)1., remains in full force and effect. In the event that both of the two methods in section 1962(c)(4)(B)1. are found invalid, the remainder of section 1962 without section 1962(c)(4)(B)1. remains in full force and effect.

~~1. *CO_2 Reduction Method.*~~

~~a. *General.* A vehicle whose operation results in reduced CO_2 emissions as compared to the average vehicle in its class may qualify for an additional advanced componentry allowance in accordance with this section (c)(4)(B)1. The vehicle's class is determined in accordance with section 1962(e)(3).~~

~~b. *Equation for Determining Additional Allowance.* The following equation is used to calculate the additional allowance, provided that in order to earn any additional allowance, the CO_2 Savings must be at least 39,000:~~

~~Advanced Componentry Allowance = CO_2 Savings ÷ 250,000~~

~~Where: CO_2 Savings = (Class Average CO_2 Production) − (Vehicle CO_2 Production)~~
~~Vehicle CO_2 Production = (150,000 ÷ CMPEG) × 19.564~~
~~CMPEG is determined in accordance with section (e)(2)~~
~~Class Average CO_2 Production for the 2000-2007 model years is determined using the following table:~~

~~Vehicle Class~~	~~Class Average CO_2 Production, 2000-2007 MY~~
~~Subcompact PC~~	~~95,902~~
~~Compact PC~~	~~96,533~~
~~Midsize PC~~	~~108,689~~
~~Large PC~~	~~114,533~~
~~Small Truck~~	~~117,384~~
~~Medium Truck~~	~~137,131~~
~~Large Truck~~	~~161,242~~

~~Class Average CO2 Production for the 2008-2014 model years is determined in accordance with the following equation:~~

~~Class Average CO2 Production = (150,000 / Baseline Fuel Economy for model years 2008-2014) × 19.564~~

~~Where: Baseline Fuel Economy for model years 2008-2014 means Baseline Fuel Economy for either the 2008-2011 or 2012-2014 model years, as applicable, as determined in accordance with section (e)(5).~~

~~e. *Alternative Method for Determining CO_2 Savings of a Vehicle That Is Not Gasoline Fueled.* For purposes of the equation in section (e)(4)(B)1.b., the Executive Officer shall approve an alternative method for determining CO_2 savings of a vehicle that is not gasoline-fueled, if the manufacturer submits the alternative method with an engineering evaluation that demonstrates to the reasonable satisfaction of the Executive Officer that the alternative method fairly represents the CO_2 impacts of the vehicle.~~

~~2. *Alternative Efficiency Method.* A manufacturer may elect to have a vehicle's additional advanced componentry allowance determined according to the Efficiency Method, in which case the allowance shall be determined in accordance with the following equation:~~

~~Advanced Componentry Allowance = ((CMPEG / (1.3 * Baseline Fuel Economy)) - 1) * 0.5~~

~~Where: CMPEG is determined in accordance with section (e)(2).~~
~~Baseline Fuel Economy is determined in accordance with section (e)(4).~~

~~A vehicle earning an Efficiency Method advanced componentry allowance of less than zero pursuant to this subsection will be treated as having an Efficiency Method advanced componentry allowance of zero.~~

~~3. *Alternative Percent Peak Power Method For the 2000-2007 Model Years.* For the 2000-2007 model years only, a manufacturer may elect to have a vehicle's additional advanced componentry allowance determined using the Percent Peak Power method, in which case the allowance shall be determined in accordance with the following equation:~~

~~Advanced Componentry Allowance = Percentage of "maximum available power" from the electric storage device~~

~~Where: Percentage of "maximum available power" means the maximum system power output available from the electrical storage device divided by the sum of the electrical storage device and the SAE net power of the heat engine.~~

~~In order to earn any score using the Percent Peak Power method a vehicle must be able to recover kinetic energy through regenerative braking and provide at least 13 percent of "maximum available power" from the electrical storage device.~~

(5) *PZEV Allowance for Low Fuel-Cycle Emissions.* A vehicle that uses fuel(s) with very low fuel-cycle emissions shall receive a PZEV allowance not to exceed ~~0.2~~ 0.3 (0.15 in the case of an HEV that uses for propulsion any fuel that does not have very low fuel-cycle emissions). In order to receive the fuel-cycle PZEV allowance, a manufacturer must demonstrate to the Executive Officer, using peer-reviewed studies or other relevant information, that NMOG emissions associated with the fuel(s) used by the vehicle (on a grams/mile basis) are lower than or equal to 0.01 grams/mile. Fuel-cycle emissions must be calculated based on near-term production methods and infrastructure assumptions, and the uncertainty in the results must be quantified. The fuel-cycle PZEV allowance is calculated according to the following formula:

PZEV Fuel Cycle Allowance = ~~0.2~~ 0.3 x [(percent of VMT using fuel(s) meeting the requirements of the preceding paragraph) / 100]

A manufacturer's demonstration to the Executive Officer that a vehicle qualifies for a fuel-cycle PZEV allowance shall include test results and/or empirical data supporting the estimate of the relative proportion of VMT while operating on fuel(s) with very low fuel-cycle emissions.

(6) *Combined ZEV Allowance.*

(A) *Calculation of Combined ZEV Allowance for a Vehicle.* The combined PZEV allowance for a qualifying vehicle in a particular model year is the sum of the PZEV allowances listed in this section 1962(c)(6), multiplied by any PZEV introduction phase-in multiplier or PZEV high efficiency multiplier listed in section 1962(c)(7) (if a 2002 through 2005 model-year PZEV qualifies for both multipliers listed in section 1962(c)(7), the product of the

two multipliers is used as the PZEV multiplier), subject to the cap in section 1962(c)(6)(B) for 2002 and subsequent model-year vehicles.

~~(A)~~ 1. *Baseline PZEV Allowance.* The baseline PZEV allowance of 0.2 for vehicles meeting the criteria in section 1962(c)(2);

~~(B)~~ 2. *Zero-Emission VMT PZEV Allowance.* The zero-emission VMT PZEV allowance, if any, determined in accordance with section 1962(c)(3);

~~(C)~~ 3. *Advanced Componentry PZEV Allowance.* The advanced ZEV componentry ZEV allowance, if any, determined in accordance with section 1962(c)(4); and

~~(D)~~ 4. *Fuel-Cycle Emissions PZEV Allowance.* The fuel-cycle emissions ZEV allowance, if any, determined in accordance with section 1962(c)(5).

(B) *Cap for 2012 and Subsequent Model-Year Vehicles.* The maximum value of AT PZEV allowances a 2012 and subsequent model-year vehicle may earn, including the baseline PZEV allowance, is 3.0.

(7) *PZEV Multipliers.*

(A) *PZEV Introduction Phase-In Multiplier.* Each 2000 through 2005 model-year PZEV that is produced and delivered for sale in California qualifies for a PZEV introduction phase-in multiplier as follows:

	MY 2000-2003	*MY 2004*	*MY 2005*
Multiplier	4.0	2.0	1.33

~~(B) *AT PZEV High Efficiency Multiplier.* An AT PZEV qualifies for a full high-efficiency multiplier in accordance with section 1962(e) starting with the 2002 model year.~~

~~(C)~~ (B) *Introduction Phase-In Multiplier for PZEVs ~~with > 10 Mile~~ That Earn a Zero Emission ~~Range~~ VMT Allowance.* Each 2000 through 2011 model year PZEV ~~with > 10 miles~~ that earns a zero emission ~~range~~ VMT allowance under section 1962(c)(3) and is produced and delivered for sale in California qualifies for a phase-in multiplier as follows:

	MY 2000-~~2007~~-2008	*MY ~~2008~~-2009-2011*	~~*MY 2010-2011*~~
Multiplier	~~2.0~~ 6.0	~~1.5~~ 3.0	~~1.25~~

(d) *Qualification for ZEV Multipliers and Credits.*

(1) *1996-1998 Model-Year ZEV Multipliers.*

(A) *1996-1998 Model-Year ZEV Multiplier Based on Vehicle Range.*

1996-1998 model-year ZEVs shall qualify for a ZEV multiplier based on vehicle range as follows:

ZEV Multiplier	*Vehicle Range (miles)*	
	Model Years 1996 and 1997	*Model Year 1998*
2	any	≥100
3	≥70	≥130

Range shall be determined in accordance with section 9.f.(2)(a) of the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," incorporated by reference in section 1960.1(k).

(B) *1996-1998 Model-Year ZEV Multiplier Based on Specific Energy of Battery.* 1996-1998 model-year ZEVs shall qualify for a ZEV multiplier based on specific energy of the battery as follows:

ZEV Multiplier	*Specific Energy of Battery (w-hr/kg)*
2	any
3	≥40

(C) *Election of Multiplier.* A 1996-1998 model-year ZEV may qualify for a ZEV multiplier according to section 1962(d)(1)(A) or section 1962(d)(1)(B), but not both.

(2) *1999-2000 Model-Year ZEV Multiplier Calculation for Extended Electric Range Vehicles.* Each ZEV that is produced and delivered for sale in California in the 1999-2000 model years and that has an extended electric range shall qualify for a ZEV multiplier as follows:

All-electric range	*MY 1999-2000*
100-175	6-10

ZEV multipliers under the above schedule will be determined by linear interpolation between the values shown in the above schedule. Range shall be determined in accordance with Section E.3.(2)(a) of the "California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," incorporated by reference in section 1962(h). ZEVs that have a refueling time of less than 10 minutes and a range of 100 miles or more shall be counted as having unlimited all-electric range, and shall consequently earn the maximum allowable ZEV multiplier for a specific model year. ZEVs that have a range of 80 to 99 miles shall qualify for ZEV multipliers in the 1999-2000 model years in accordance with the following equation:

ZEV multiplier = (6) x (AER equivalent to a 10 minute recharge/100) x 0.5.

(3) *ZEV Multipliers for 2001-2002 ~~and Subsequent~~ Model Years.*

(A) *ZEV Phase-In Multiplier.* Each 2001 ~~to 2005~~ and 2002 model-year ZEV that is placed in service in California by April 15, 2003 qualifies for a ZEV phase-in multiplier ~~as follows:~~ of 4.0. A 2001 to 2002 model-year ZEV that is placed in service in California after April 15, 2003 earns credits in accordance with section 1962(d)(5) instead of section 1962(d)(3).

	~~*MY 2001-2002*~~	~~*MY 2003-2005*~~
~~Multiplier~~	~~4.0~~	~~1.25~~

~~(B) *ZEV Discount Multiplier for NEVs.* Each 2004 and subsequent model-year NEV that is produced and delivered for sale in California is subject to a ZEV discount multiplier for NEVs as follows:~~

	~~*MY 2004 - MY 2005*~~	~~*MYs 2006 and Subsequent*~~
~~Discount Multiplier~~	~~0.5~~	~~0.15~~

~~(C)~~(B) *ZEV Extended Electric Range Multiplier.*

1. *Basic Multiplier Schedule.* Each 2001 and ~~subsequent~~ 2002 model-year ZEV that is placed in service in California and that has an extended urban electric range qualifies for a ZEV extended electric range multiplier as follows:

Urban All-Electric Range	*Multiplier*
< 50 miles	1
> 50 miles to < 275 miles	(Urban AER-25)/25
> 275 miles	10

A NEV is not eligible to earn a ZEV extended electric range multiplier. In determining ZEV range multipliers, specialty ~~electric vehicles~~ ZEVs may, upon Executive Officer approval, be tested at the parameters used to determine the ZEV multipliers for the existing ~~electric vehicle~~ ZEV.

2. *Fast refueling.*

a. *Full Fueling in 10 Minutes or Less.* A ~~2008 and earlier~~ 2001-2002 model-year ZEV with the demonstrated capability to accept fuel or electric charge until achieving at

least 95% SOC or rated fuel capacity in 10 minutes or less when starting from all operationally allowable SOC or fuel states is counted as having unlimited zero emission range and qualifies for the maximum allowable ZEV extended electric range multiplier.

b. *At Least 60-Mile Range in Less Than 10 Minutes.* A ~~2008 and earlier~~ 2001-2002 model year ZEV with the demonstrated capacity to accept fuel or electric charge equivalent to at least 60 miles of UDDS range when starting from 20% SOC in less than 10 minutes is counted as having 60 additional miles (up to a 275 mile maximum) of UDDS range in the range multiplier determination in section 1962(d)(3)(C)1.

~~3. *Multiplier Phase Down.* Starting with the 2005 model year, the ZEV extended electric range multiplier is phased down to 0.15 of its value in accordance with section 1962(e)(6).~~

~~(D)~~(C)*Combined ZEV Multiplier.* ~~Starting with~~ During the 2001-2002 model years, the combined ZEV multiplier for each ZEV in a specific model year is the product of:

1. The ZEV phase-in multiplier if any as set forth in section 1962(d)(3)(A), times

2. In the case of a NEV, the ZEV discount multiplier for NEVs if any as set forth in section 1962(d)(3)(B), times

3. The extended electric range multiplier if any as set forth in section 1962(d)(3)(C)~~, times~~.

~~4. The high efficiency multiplier if any as set forth in section 1962(e).~~

(4) ~~(E)~~ *Effect of ZEV Multipliers in the 1996-2002 Model Years.* In calculating the number of ZEVs produced and delivered for sale in California by a manufacturer in ~~a~~ the 1996-2002 model years and the ZEV credits from such vehicles, the number of ZEVs qualifying for a particular ZEV multiplier shall be multiplied by the combined ZEV multiplier.

(5) *ZEV Credits for 2003 and Subsequent Model Years.*

(A) *ZEV Tiers for Credit Calculations.* Starting in the 2003 model year, ZEV credits from a particular ZEV are based on the assignment of a given ZEV into one of the following five ZEV tiers:

ZEV Tier	*Common Description*	*UDDS ZEV Range*	*Fast Refueling Capability*
NEV	NEV	No minimum	N/A
Type 0	Utility EV	<50 miles	N/A
Type I	City EV	>= 50, <100 miles	N/A
Type II	Full Function EV	>= 100 miles	N/A
Type III	Fuel Cell EV	>= 100 miles	Must be capable of replacing 95% maximum rated energy capacity in <= 10 minutes

A specialty ZEV may, upon Executive Officer approval, be categorized on the basis of the existing ZEV from which it is modified.

(B) *ZEV Credits for 2003 and subsequent model-year ZEVs.* A 2003 and subsequent model-year ZEV, other than a NEV, earns 1 ZEV credit when it is produced and delivered for sale in California. A 2003 and subsequent model-year ZEV earns additional credits based on the earliest model year in which the ZEV is placed in service (not earlier than the ZEV's model year). The following table identifies the credits that a ZEV in each of the five ZEV tiers will earn, including the credit not contingent on placement in service, if it is placed in service in the specified model year or by March 31 after the end of the specified model year.

Tier	*Model Year in Which ZEV is Placed in Service*									
	2003	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012+*
NEV	1.25	0.625	0.625	0.15	0.15	0.15	0.15	0.15	0.15	0.15
Type 0 (Utility)	1.5	1.5	1.5	1.5	1.5	1.5	1	1	1	1
Type 1 (City)	8	8	8	7	7	7	2	2	2	2
Type II	12	12	12	10	10	10	3	3	3	3
Type III	40	40	40	15	15	15	4	4	4	3

~~(e) *ZEV and Advanced Technology PZEV High Efficiency Multipliers*~~

~~(1) *Eligibility.* Beginning with the 2005 model year for ZEVs and the 2002 model year for advanced technology PZEVs, both ZEVs and advanced technology PZEVs are eligible for a high efficiency multiplier. A NEV is not eligible to earn an efficiency multiplier. A vehicle earning an efficiency multiplier value of less than 1.00 pursuant to section 1962(e)(3) will be treated as having an efficiency multiplier of 1.~~

~~(2) *Calculation of CMPEG Rating.* For all vehicle types, a CMPEG (California miles per equivalent gallon) rating is determined as follows:~~

~~(A) For gasoline-fueled vehicles and HEVs with < 10 mile zero-emission range, CMPEG = Combined Fuel Economy determined in accordance with 40 CFR Part 600 = 1/ [.55 / (EPA city mpg, unadjusted) + .45 / (EPA highway mpg, unadjusted)].~~

~~(B) For BEVs and off vehicle charge capable HEVs with ≥10 mile zero-emission range, CMPEG = [33,705 AC whr/gal / (.55 (AC whr/mile UDDS) + .45 (AC whr/mile HFEDS))] where AC whr/ mile values are determined in accordance with section E.3. "Determination of All-Electric Range Urban," and "Determination of All-Electric Range Highway" of the "California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light Duty Truck and Medium Duty Vehicle Classes," as incorporated by reference in section 1962(h). Qualifying HEV CMPEG determination shall be based solely on electric mode operating efficiency for vehicles that are able to maintain test cycle speed and time tolerances for the entire zero-emission range test.~~

~~(C) *Alternative Fuel Vehicles.*~~

~~1. For vehicles operating on an alternative fuel other than hydrogen, including CNG or alcohol, CMPEG = Combined Fuel Economy as determined in accordance with 40 CFR Part 600. Alternate fuel vehicle CMPEG shall not be compensated with the federal (1/0.15) "fuel content" factor used in determining average fuel economy.~~

~~2. For vehicles operating on hydrogen, CMPEG shall be determined by converting the combined fuel economy value measured on the basis of miles per kg of hydrogen (MPkg) into CMPEG as follows:~~

~~Hydrogen MPkg x (1.0 kg H2/gallon gasoline) = CMPEG~~

~~(D) For flexible-fuel or dual-fuel vehicles, CMPEG is the lowest of the federal combined fuel economy values determined for any fuel or fuel mixture on which the vehicle is certified to operate.~~

~~(3) *Vehicle classes.*~~

~~(A) *List of vehicle classes.* Efficiency multipliers will be determined based on assignment of a vehicle to one of the following vehicle classes; interior volume is determined in accordance with SAE Recommended Practice J1100 and U.S. EPA Fuel economy regulations, 40 CFR 600.315-82.~~

~~*Vehicle Class*~~	~~*Class Description*~~
~~City Vehicle (effective beginning in 2008 model year)~~	~~2 passenger electric vehicle with length < 3 meters~~
~~Subcompact PC~~	~~Interior volume up to 99 ft^3, and not a City Vehicle~~
~~Compact PC~~	~~Interior volume 100-109 ft^3~~
~~Midsize PC~~	~~Interior volume 110-119 ft^3~~
~~Large PC~~	~~Interior volume over 120 ft^3~~
~~Small Truck~~	~~LDT 1~~
~~Medium Truck~~	~~LDT 2~~
~~Large Truck~~	~~LDT 3 & 4~~

~~(B) *Assignment of derivative or converted vehicles.* A derivative station wagon shall be placed in the same class as the sedan on which it is based. A minivan shall be placed in the appropriate truck category based on adjusted or adjusted loaded vehicle weight. A derivative or conversion ZEV that shares a production platform with one or more gasoline engine versions shall be placed in the same class as the smallest or lightest gasoline version of the same platform for that model year.~~

~~(4) *High efficiency multipliers for the 2002-2007 model years.* For model years 2002-2007, the efficiency multiplier for each vehicle class is determined according to the following equation:~~

~~High Efficiency Multiplier = CMPEG / (1.5 * Baseline Fuel Economy)~~

~~Where: Baseline Fuel Economy is determined in accordance with the following table:~~

~~*Vehicle Class*~~	~~*Baseline Fuel Economy MY 2002-2007*~~
~~Subcompact PC~~	~~30.6~~
~~Compact PC~~	~~30.4~~
~~Midsize PC~~	~~27.0~~
~~Large PC~~	~~25.6~~
~~Small Truck~~	~~25.0~~
~~Medium Truck~~	~~21.4~~
~~Large Truck~~	~~18.2~~

~~(5) *High efficiency multipliers for the 2008 and subsequent model years.* For the 2008 and subsequent model years, the efficiency multiplier for each vehicle class is determined in accordance with the following equations:~~

~~For ZEVs and PZEVs with > 10 mile Zero Emission Range: Efficiency multiplier = CMPEG / (2.0 * Baseline Fuel Economy)~~

~~For all other AT PZEVs: Efficiency multiplier = CMPEG / (1.5 * Baseline Fuel Economy)~~

~~Where: *Baseline Fuel Economy* for model years 2008-2011 is the model year 2004 unadjusted combined federal sales-weighted fuel economy for the vehicle class as determined by U.S. EPA. For a City Vehicle, the baseline fuel economy is 45.9.~~

~~*Baseline Fuel Economy* for Model Years 2012-2014 is the model year 2008 unadjusted combined federal sales-weighted fuel economy for the vehicle class as determined by U.S. EPA. For a City Vehicle, the baseline fuel economy is 45.9.~~

~~*Baseline Fuel Economy* for model years 2015 and beyond shall be determined using the same methodology.~~

~~(6) *Phasing in the High Efficiency Multiplier for ZEVs.*~~

~~(A) *Range and Efficiency Phasing Factors.* For ZEVs, the high efficiency multiplier is phased in, and the extended electric range multiplier is phased down to 0.15 of its initial value, using the phasing factors in the following schedule:~~

~~*Range and Efficiency Phasing Factors for Each Model Year*~~

	~~2004~~	~~2005~~	~~2006~~	~~2007~~	~~2008~~	~~2009~~	~~2010~~	~~2011~~	~~2012+~~
~~Range~~	~~1.000~~	~~0.825~~	~~0.600~~	~~0.450~~	~~0.300~~	~~0.250~~	~~0.200~~	~~0.200~~	~~0.150~~
~~Efficiency~~	~~0.000~~	~~0.100~~	~~0.350~~	~~0.550~~	~~0.600~~	~~0.700~~	~~0.800~~	~~0.800~~	~~0.825~~

~~(B) *Application of the Range and Efficiency Phasing Factors.* The range and efficiency phasing factors are applied as follows:~~

~~Phased range multiplier = ((range multiplier − 1) × range phasing factor) + 1~~

~~Phased efficiency multiplier = ((efficiency multiplier − 1) × efficiency phasing factor) + 1~~

(f) *In-Service Warranty Multiplier for 2001-2004 Model-Year ZEVs and PZEVs With ≥ 10 Mile Zero Emission Range.* Except in the case of a NEV, an additional ZEV or PZEV multiplier will be earned for the 2001 through ~~2011~~ 2004 model years by a ZEV or a PZEV with ≥ 10 mile zero emission range whose zero-emission energy storage or conversion system is under an original warranty from the vehicle manufacturer beyond three years of service and is registered for operation on public roads in California. For the 2001 through 2007 model years, a manufacturer will receive 0.1 times the ZEV credit earned by the vehicle if it were leased or sold new in that year, including multipliers, on a year-by-year basis beginning in the fourth year. For the 2008 through 2011 model years, a manufacturer will receive 0.05 times the ZEV credit earned by the vehicle if it were leased or sold new in that year, including multipliers, on a year-by-year basis beginning in the fourth year. The warranty multiplier is reported and earned in the year following each continuous year of service. ZEVs, other than NEVs, re-leased prior to January 25, 2001 for a period beyond three years of service will earn an additional ZEV multiplier of 0.1 times the ZEV credit earned by the vehicle if it were leased or sold new in that year, including multipliers, for each additional year that they are in service and registered for operation on public roads in California. Such vehicles are not required to have the zero emission energy storage or conversion system under an original warranty from the vehicle manufacturer.

(g) *Generation and Use of ZEV Credits; Calculation of Penalties*

(1) *Introduction.* A manufacturer that produces and delivers for sale in California ZEVs or PZEVs in a given model year exceeding the manufacturer's ZEV requirement set forth in section 1962(b) shall earn ZEV credits in accordance with this section 1962(g).

(2) *ZEV Credit Calculations.*

(A) *Credits from ZEVs.* The amount of g/mi ZEV credits earned by a manufacturer in a given model year from ZEVs shall be expressed in units of g/mi NMOG, and shall be equal to the number of credits from ZEVs produced and delivered for sale in California that the manufacturer applies towards meeting the ZEV requirements for the model year subtracted from the number of ZEVs produced and delivered for sale in California by the

manufacturer in the model year and then multiplied by the NMOG fleet average requirement for PCs and LDT1s for that model year.

(B) *Credits from PZEVs.* The amount of g/mi ZEV credits from PZEVs earned by a manufacturer in a given model year shall be expressed in units of g/mi NMOG, and shall be equal to the total number of PZEVs produced and delivered for sale in California that the manufacturer applies towards meeting its ZEV requirement for the model year subtracted from the total number of PZEV allowances from PZEVs produced and delivered for sale in California by the manufacturer in the model year and then multiplied by the NMOG fleet average requirement for PCs and LDT1s for that model year.

(C) *Separate Credit Accounts.* The number of credits from a manufacturer's [i] ZEVs, [ii] advanced technology PZEVs, and [iii] all other PZEVs shall each be maintained separately.

(3) *ZEV Credits for MDVs and LDTs other than LDT1s.* ZEVs and PZEVs classified as MDVs or as LDTs other than LDT1s may be counted toward the ZEV requirement for PCs and LDT1s, and included in the calculation of ZEV credits as specified in this section 1962(g) if the manufacturer so designates.

(4) *ZEV Credits for Advanced Technology Demonstration Programs.* A vehicle placed in a California advanced technology demonstration program may earn ZEV credits even if it is not "delivered for sale." To earn such credits, the manufacturer must demonstrate to the reasonable satisfaction of the Executive Officer that the vehicles will be regularly used in applications appropriate to evaluate issues related to safety, infrastructure, fuel specifications or public education. Such a vehicle is eligible to receive the same allowances and credits that it would have earned if placed in service. To determine vehicle credit, the model-year designation for a demonstration vehicle shall be consistent with the model-year designation for conventional vehicles placed in the same timeframe.

(5) *ZEV Credits for Transportation Systems.*

(A) *General.* In model years 2001 through ~~2007~~ 2011, a ZEV, advanced technology PZEV or PZEV placed as part of a transportation system may earn additional ZEV credits, which may used in the same manner as other credits earned by vehicles of that category, except as provided in section (g)(5)(C) below. A NEV is not eligible to earn credit for transportation systems. To earn such credits, the manufacturer must demonstrate to the reasonable satisfaction of the Executive Officer that the vehicle will be used as a part of a project that uses an innovative transportation system as described in section (g)(5)(B) below.

(B) *Credits Earned.* In order to earn additional credit under this section (g)(5), a project must at a minimum demonstrate [i] shared use of ZEVs, AT PZEVs or PZEVs, and [ii] the application of "intelligent" new technologies such as reservation management, card systems, depot management, location management, charge billing and real-time wireless information systems. If, in addition to factors [i] and [ii] above, a project also features linkage to transit, the

project may receive further additional credit. For ZEVs only, not including NEVs, a project that features linkage to transit, such as dedicated parking and charging facilities at transit stations, but does not demonstrate shared use or the application of intelligent new technologies, may also receive additional credit for linkage to transit. The maximum credit awarded per vehicle shall be determined by the Executive Officer, based upon an application submitted by the manufacturer and, if appropriate, the project manager. The maximum credit awarded shall not exceed the following:

Type of Vehicle	*Shared Use, Intelligence*	*Linkage to Transit*
PZEV	2	1
Advanced Technology PZEV	4	2
ZEV	6	3

(C) *Cap on Use of Credits.*

1. *ZEVs.* Credits earned or allocated by ZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-tenth of a manufacturer's ZEV obligation in any given model year.

2. *AT PZEVs.* Credits earned or allocated by AT PZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-twentieth of a manufacturer's ZEV obligation in any given model year, but may only be used in the same manner as other credits earned by vehicles of that category.

3. *PZEVs.* Credits earned or allocated by PZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-fiftieth of the manufacturer's ZEV obligation in any given model year, but may only be used in the same manner as other credits earned by vehicles of that category.

(D) *Allocation of Credits.* Credits shall be assigned by the Executive Officer to the project manager or, in the absence of a separate project manager, to the vehicle manufacturers upon demonstration that a vehicle has been placed in a project. Credits shall be allocated to vehicle manufacturers by the Executive Officer in accordance with a recommendation submitted in writing by the project manager and signed by all manufacturers participating in the project, and need not be allocated in direct proportion to the number of vehicles placed.

(6) *Submittal of ZEV Credits.* A manufacturer may meet the ZEV requirements in any given model year by submitting to the Executive Officer a commensurate amount of g/mi ZEV credits, consistent with section 1962(b). These credits may be earned previously by the manufacturer or acquired from another manufacturer, except that beginning with the 2006 model year credits earned from NEVs offered for sale or placed in service in model years 2001 through 2005 cannot be used to satisfy more than the following portion of ~~any program category (ZEV, AT PZEV, PZEV)~~ a manufacturer's percentage ZEV obligation that may not be satisfied with credits from AT PZEVs or PZEVs:

2006	*2007 and beyond*
75%	50%

This limitation applies to credits earned in model years 2001 through 2005 by the same manufacturer or earned in model years 2001 through 2005 by another manufacturer and acquired. The amount of g/mi ZEV credits required to be submitted shall be calculated according to the criteria set forth in this section 1962(g).

(7) *Requirement to Make Up a ZEV Deficit.*

(A) *General.* A manufacturer that produces and delivers for sale in California fewer ZEVs than required in a given model year shall make up the deficit by the end of the next model year by submitting to the Executive Officer a commensurate amount of g/mi ZEV credits, except that credits generated from PZEVs may be used to offset deficits for two model years. The amount of g/mi ZEV credits required to be submitted shall be calculated by [i] adding the number of ZEVs produced and delivered for sale in California by the manufacturer for the model year to the number of ZEV allowances from partial ZEV allowance vehicles produced and delivered for sale in California by the manufacturer for the model year (for a large volume manufacturer, not to exceed that permitted under section 1962(b)(2)), [ii] subtracting that total from the number of ZEVs required to be produced and delivered for sale in California by the manufacturer for the model year, and [iii] multiplying the resulting value by the fleet average requirements for PCs and LDT1s for the model year in which the deficit is incurred.

~~(B) *Additional Time to Make Up ZEV Deficits for the 2003-2004 Model Years.*~~

~~1. *Model Year 2003 ZEV Deficits.* A manufacturer that produces, and delivers for sale in California, model year 2003 or earlier PZEVs that generate at least twice as many credits as are necessary to take full advantage of the manufacturer's 60% PZEV option for the 2003 model year has through the 2007 model year to fully exercise its option to meet an additional 20% of its ZEV requirement for the 2003 model year with credits from advanced technology PZEVs.~~

~~2. *Model Year 2004 ZEV Deficits.* A manufacturer that qualifies under section 1962(g)(7)(B) 1., and produces, and delivers for sale in California, model year 2004 or earlier PZEVs that generate at least twice as many credits as are necessary to take full advantage of the manufacturer's 60% PZEV option for the 2003 and 2004 model years, has through the 2008 model year to fully exercise its option to meet an additional 20% of its ZEV requirement for the 2004 model year with credits from advanced technology PZEVs.~~

(8) *Penalty for Failure to Meet ZEV Requirements.* Any manufacturer that fails to produce and deliver for sale in California the required number of ZEVs or submit an appropriate amount of g/mi ZEV credits and does not make up ZEV deficits within the specified time period shall be subject to the Health and Safety Code section 43211 civil penalty applicable to a manufacturer that sells a new motor vehicle that does not meet the applicable emission standards

adopted by the state board. The cause of action shall be deemed to accrue when the ZEV deficits are not balanced by the end of the specified time period. For the purposes of Health and Safety Code section 43211, the number of vehicles not meeting the state board's standards shall be calculated according to the following equation, provided that the percentage of a large volume manufacturer's ZEV requirement for a given model year that may be satisfied with partial ZEV allowance vehicles or ZEV credits from such vehicles may not exceed the percentages permitted under section 1962(b)(2)(A):

(No. of ZEVs required to be produced and delivered for sale in California for the model year) - (No. of ZEVs produced and delivered for sale in California for the model year) - (No. of ZEV allowances from partial ZEV allowance vehicles produced and delivered for sale in California for the model year) - [(Amount of ZEV credits submitted for the model year) / (the fleet average requirement for PCs and LDT1s for the model-year)].

(h) *Test Procedures.* The certification requirements and test procedures for determining compliance with the this section 1962 are set forth in "California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," adopted by the state board on August 5, 1999, and last amended ~~July 30, 2002~~ [Insert date of amendments], which is incorporated herein by reference.

(i) *ZEV-Specific Definitions.* The following definitions apply to this section 1962.

(1) "Advanced technology PZEV" or "AT PZEV" means any PZEV with an allowance greater than 0.2 before application of the PZEV early introduction phase-in multiplier or the high efficiency multiplier.

(2) "Battery electric vehicle" means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

(3) "Neighborhood electric vehicle" means a motor vehicle that meets the definition of Low-Speed Vehicle either in section 385.5 of the Vehicle Code or in 49 CFR 571.500 (as it existed on July 1, 2000), and is certified to zero-emission vehicle standards.

(4) "Placed in service" means having been sold or leased to an end-user and not to a dealer or other distribution chain entity, and having been individually registered for on-road use by the California Department of Motor Vehicles.

(5) "Specialty ~~electric vehicle~~ ZEV" means a version of an existing ~~electric vehicle~~ ZEV that is designed for a commercial or governmental fleet application, and has the same battery pack and chassis as the existing ~~electric vehicle~~ ZEV from which it is modified.

(j) *Abbreviations.* The following abbreviations are used in this section 1962:

"AER" means all-electric range.
"BEV" means battery electric vehicle.
~~"CMPEG" means California miles per equivalent gallon.~~
"HEV" means hybrid-electric vehicle.
"HFEDS" means highway fuel economy driving cycle.
"LDT" means light-duty truck.
"LDT1" means a light-truck with a loaded vehicle weight of 0-3750 pounds.
"LDT2" means a "LEV II" light-duty truck with a loaded vehicle weight of 3751 pounds to a gross vehicle weight of 8500 pounds, or a "LEV I" light-duty truck with a loaded vehicle weight of 3751-5750 pounds.
"MDV" means medium-duty vehicle.
"Non-Methane Organic Gases" or "NMOG" means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.
"MY" means model year.
"NEV" means neighborhood electric vehicle.
"NOx" means oxides of nitrogen.
"PC" means passenger car.
"PZEV" means any vehicle that is delivered for sale in California and that qualifies for a partial ZEV allowance of at least 0.2.
"SOC" means state of charge.
"SULEV" means super-ultra-low-emission-vehicle.
"UDDS" means urban dynamometer driving cycle.
"ULEV" means ultra-low emission vehicle.
"VMT" means vehicle miles traveled.
"ZEV" means zero-emission vehicle.

(k) *Severability.* Each provision of this section is severable, and in the event that any provision of this section is held to be invalid, the remainder of this article remains in full force and effect.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43204, and 43205.5, Health and Safety Code.

INCORPORATION BY REFERENCE REQUIREMENTS

Incorporation by reference is the use of an outside document. The document is subject to the same substantive and procedural requirements as regulations printed in the CCR.

1. Agency demonstrates in final statement of reasons that it would be cumbersome, unduly expensive, or otherwise impractical to publish the other document in the CCR.

2. Agency demonstrates in final statement of reasons that other document is available upon requested directly from the agency or is reasonably available to the affected public from a commonly known or specified source.
Alternative: agency specifies in text of regulation how a copy of the document may be obtained.

3. Informative digest portion of the rulemaking notice clearly identified the document to be incorporated by title and date of publication or issuance.
Alternative: for post-hearing changes, agency may clearly identify the other document in a public notice prepared and mailed pursuant to title 1, CCR, section 44.

3. Regulation text states that document is incorporated by reference and identifies the document by title and date of publication or issuance.
Alternative: not specific date required if California statute requires compliance with future changes to incorporated document.

5. Regulation text specifies which portions of the other document are being incorporated by reference.

Revised 01/03

TAB 3

TEMPLATE

STAFF REPORT: INITIAL STATEMENT OF REASONS

State of California
AIR RESOURCES BOARD

STAFF REPORT: INITIAL STATEMENT OF REASONS FOR RULEMAKING

[ENTER REPORT TITLE HERE]

Date of Release: **[date]**
Scheduled for Consideration: **[date]**

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

[THIS PAGE IS OPTIONAL--OTHER COVER PAGES MAY BE USED]

Revised 02/03

State of California
AIR RESOURCES BOARD

Staff Report: Initial Statement of Reasons for Proposed Rulemaking

PUBLIC HEARING TO CONSIDER THE . . . .

Date of Release: **[date]**
Scheduled for Consideration: **[date]**

TABLE OF CONTENTS

INTRODUCTION AND BACKGROUND

[DESCRIPTION OF PUBLIC PROBLEM, ADMINISTRATIVE CIRCUMSTANCE PROPOSAL IS INTENDED TO ADDRESS; PROPOSED SOLUTIONS AND RATIONALE FOR EACH REGULATORY PROVISION[1]]

SUMMARY OF RECOMMENDED ACTION **[AND ALTERNATIVES]**

AIR QUALITY, ENVIRONMENTAL **[Emission Impacts and Other Environmental Impacts]** AND ECONOMIC IMPACTS, ENVIRONMENTAL JUSTICE

A. **Air Quality**

1. **[Air quality data/emission reductions]**

2. **[CEQA Analysis**

[1] Section 11346.2(b)(1) of the Government Code (APA) provides that "A statement of the specific purpose of each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment," the ISOR shall include "a statement of the reasons why the agency believes these mandates or prescriptive standards are required." The APA defines "prescriptive standard" as "a regulation that specifies the sole means of compliance with a performance standard by specific actions, measurements, or other quantifiable means." [Gov't Code sec. 11342.590] A "performance standard" is "a regulation that describes an objective with the criteria stated for achieving the objective." [Gov't Code sec. 11342.570]

a. Description of project, i.e., proposed regulatory action, if not covered elsewhere in report
b. impacts, if any
c. Identify mitigation measures and alternatives
d. Compliance reporting/monitoring plan, if necessary[2]]

B. [Discussion of magnitude and distribution of costs of proposal (including administrative costs), cost effectiveness]

C. [Alternatives, if not covered elsewhere in report]

1. Evaluation of alternatives considered and reasons for rejecting them[3]

Choice	Emissions Reduction	Cost/Pound
A	1.5 tpd	$3.43
B	1.0 tpd	2.12
C	0.8 tpd	1.56

Alternatives should not be invented solely to comply with this section. Please note, however, that the APA specifically requires the consideration of performance standards as an alternative to any regulation, which would mandate the use of specific technologies or equipment, or prescribe specific actions or procedures. [Gov't Code sec. 11346.2(b)(3)(A)] Finally, it is important, to meet OAL's concerns that all proposed changes in a regulation are addressed not just regulation generally.

2. Description of reasonable alternatives considered that would lessen impact on small business[4]

3. Evidence relied upon to support initial determination in the notice that the regulation will not have a significant adverse economic impact on business[5]

---

[2] Public Resources Code sections 21080 and 21081 require a reporting or monitoring program to ensure compliance during project implementation.

[3] Section 11346.2 (b)(3)(A) of the Government Code (APA) provides that the ISOR shall contain a "description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific actions or procedures, the imposition of performance standards shall be considered as an alternative".

[4] Section 11346.2 (b)(3)(B) of Government Code (APA) provides that the ISOR shall contain a "description of any reasonable alternatives the agency has identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business. It is not the intent of the paragraph to require the agency to artificially construct alternatives or to justify why it has not identified alternatives".

4. **Alternatives statement must be included, as follows:]**
   No alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective or less burdensome to affected private persons than the proposed regulation.

5. **Justification for adoption regulations different from federal regulations contained in the Code of Federal Regulations**[8]

V. **REFERENCES**[6] **[if not identified elsewhere in the report]**
Attachments[7]

---

[5] 11346.2(b)(4) of the Government Code (APA provides that the ISOR shall contain "Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have significant adverse economic impact on business.

[6] Section 11346.2 (b)(2) of Government Code (APA) provides that the ISOR shall contain "An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

[7] Attachments to the Staff Report: Initial Statement of Reasons for Rulemaking shall include the Proposed Regulation Order. Other attachments may include, but are not limited to, the Notice of Public Hearing, SRP findings and the like. Items which should not be attachments to the staff report include explanations of technical and administrative details, letters of public comment, extensive numerical calculations, background studies and their analysis, etc. All such items should be placed in the Technical Support Document, rather than the staff report. Also the Technical Support Document itself should not be an attachment to the staff report.

[8] Section 11346.2(5) A department, board, or commission with in the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

Revised 02/03

EXAMPLE

STAFF REPORT: INITIAL STATEMENT OF REASONS

State of California
CALIFORNIA ENIVIRONMENTAL PROTECTION AGENCY
AIR RESOURCES BOARD

STAFF REPORT:
INITIAL STATEMENT OF REASONS FOR PROPOSED RULEMAKING

PROPOSED TECHNICAL AMENDMENTS TO THE MOTOR VEHICLE EVAPORATIVE AND EXHAUST EMISSIONS TEST PROCEDURES

Date of Release: April 7, 2006
Scheduled for Consideration: May 25, 2006

This document has been reviewed by the staff of the California Air Resources Board, and approved for publication. Publication does not signify that the contents necessarily reflect the views and policies for the Air Resources Board.

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

I. INTRODUCTION 2

II. PROPOSED EVAPORATIVE-RELATED AMENDMENTS 2
- A. Background 2
- B. Description of the Proposal 4

III. PROPOSED FOUR-WHEEL DRIVE DYNAMOMETER AMENDMENTS 9
- A. Background 9
- B. Description of the Proposal 9

IV. PROPOSED VEHICLE LABELING AMENDMENTS 10
- A. Background 10
- B. Description of the Proposal 10

V. REGULATORY ALTERNATIVES 11

VI. AIR QUALITY, ENVIRONMENTAL, AND ECONOMIC IMPACTS 11

VII. ENVIRONMENTAL JUSTICE 11

VIII. STAFF RECOMMENDATION 12

IX. REFERENCES 13

APPENDICES

APPENDIX A:	FINAL REGULATION ORDER
APPENDIX B:	DESCRIPTION OF PROPOSED AMENDMENTS – TITLE 13
APPENDIX C:	DESCRIPTION OF PROPOSED AMENDMENTS – TEST PROCEDURES
APPENDIX D:	PROPOSED CHANGES TO EVAP TEST PROCEDURES
APPENDIX E:	PROPOSED CHANGES TO REFUELING PROCEDURES
APPENDIX F:	PROPOSED CHANGES TO EXHAUST PROCEDURES

EXECUTIVE SUMMARY

The Air Resources Board, United States Environmental Protection Agency (U.S. EPA), and automobile manufacturers have collaborated in an effort to streamline the motor vehicle evaporative emissions test procedures. The U.S. EPA issued a direct final rule for these amendments on December 8, 2005 (U.S. EPA 2005; Summary), that became effective on February 6, 2006. Additional minor amendments were also included that address four-wheel drive dynamometer provisions and clarify the vehicle label specifications. Similarly, staff proposes to modify the applicable California procedures to align with these latest federal versions. The proposal serves to reduce the test burden on manufacturers that is connected with evaporative emission-related certification and in-use vehicle compliance activities, without any change in the stringency of the procedures or effectiveness of the emission standards. This objective is accomplished by procedural clarifications and modifications that eliminate redundancies and complexities and result in a better harmonization with the federal procedures.

In particular, the proposal includes amendments that provide manufacturers with an option to waive compliance demonstration with the certification supplemental two-day diurnal emission standard in order to eliminate compliance redundancy; to clarify the current provision for alternative running loss test procedures so that technical complexities are resolved; to provide an allowance for alternative evaporative canister preconditioning methods with the intent to eliminate inaccessibility difficulties; to clarify the applicability of the In-Use Verification Procedure requirements with respect to fuel types; and, to provide an optional configuration of the canister and vent hoses under refueling emission tests. Accordingly, staff recommends that the proposed amendments be adopted as described.

I. INTRODUCTION

The Air Resources Board (ARB) first required compliance with motor vehicle evaporative emissions standards and test procedures in 1970. Since then ARB has established more stringent evaporative emission standards and more realistic test requirements that reduce evaporative emissions. California's implementation of evaporative emission standards has usually preceded federal action.

In 1996, the United States Environmental Protection Agency (U.S. EPA), ARB, and automobile manufacturers began a collaborative effort to determine if the evaporative test procedures could possibly be "streamlined" without impacting stringency. In December 2002, U.S. EPA proposed streamlined measures that included both clarifications to their current procedures and suggestions for future regulatory modifications (U.S. EPA 2002). Subsequently, these clarifications and modifications were codified by U.S. EPA, and became effective on February 6, 2006 (U.S. EPA 2005). The amendments also included minor revisions to the dynamometer[1] procedures and specifications, and vehicle label requirements.

ARB now proposes similar changes to better harmonize the relevant California procedures with the latest federal revisions. Specifically, these evaporative-related revisions both clarify and modify particular requirements contained within the evaporative, refueling, and exhaust emission test procedures. Other minor amendments to the exhaust procedures are proposed that add new provisions to recognize four-wheel drive dynamometer tests, and update the current vehicle label specifications. Staff's proposal will lessen the test burden on manufacturers of certification and in-use vehicle compliance. The amendments do not affect the stringency of the current requirements. A general discussion of the evaporative emissions-related standards and test procedures is provided below, as well as a more detailed discussion of staff's proposal.

II. PROPOSED EVAPORATIVE-RELATED AMENDMENTS

A. Background

The majority of evaporative emissions results from fuel vapors escaping from a vehicle's fuel system and permeation of the fuel through components such as the

[1] A dynamometer is a stationary laboratory device used to simulate on-road driving.

fuel tank and fuel lines. Modern vehicles control these emissions by use of a carbon canister[2], and fuel tanks and lines made from advanced, non-permeable materials.

Evaporative Emission Test Procedures

Evaporative emission certification requirements adopted under the second generation of California's Low Emission Vehicle emission regulations (LEV II evap) were phased in over the 2004 – 2006 model years. These LEV II evap requirements affect passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles[3]. The regulations ensure that evaporative emissions are controlled to "near-zero" levels and that this control will be effective for the useful life of the vehicle. As an option, manufacturers may also certify to California's unique "zero fuel" evaporative emission standard giving manufacturers the opportunity to generate credits to satisfy their Zero Emission Vehicle requirements.

Compliance with the LEV II evaporative standards is demonstrated by measuring the vehicle's evaporative emissions over simulated real-world conditions. For example, evaporative emissions are measured in an enclosed chamber in which the vehicle is subjected to temperatures swings that are intended to simulate exposure to several hot summer days (i.e., diurnals). Evaporative emissions are also measured during simulated driving conditions (i.e., running losses), and immediately after the engine is shut down (i.e., hot soak). Specifically, compliance is demonstrated using a series of two specific test procedure sequences: 1) Three-Day Diurnal plus High-Temperature Hot Soak and Running Loss (3D+HS); and, 2) Supplemental Two-Day Diurnal plus Hot Soak (2D+HS) ("California Evaporative Emission Standards and Test Procedures For 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999 [hereinafter referred to as "Evap Test Procedures"]; Part I.E.1(d)). Both of these procedures involve prescribed methods to suitably condition and stabilize the evaporative emission control system components (i.e., preconditioning of the canister and the vehicle fuel system (e.g., fuel tank drain and fills, dynamometer test cycles, etc.) prior to the actual emission tests. Moreover, certification compliance is also demonstrated by properly aging evaporative emission control system components to the required useful life in advance of any certification tests. The evaporative certification data submitted by manufacturers are subject to confirmation when requested by the ARB (i.e., confirmatory testing).

---

[2] The onboard carbon canister is the prime evaporative emissions control device. The canister contains activated carbon material that collects hydrocarbon vapors and later, under suitable engine conditions, the vapors are "purged" out of the canisters and combusted in the engine.

[3] Incomplete medium-duty vehicles and heavy-duty vehicles, over 14,000 pounds gross vehicle weight rating, are certified to the applicable evaporative emission standards solely on the basis of an engineering evaluation of the system and data which may be partly derived from evaporative control systems certified for use on light- and medium-duty vehicles.

A continuous five-day period is necessary to conduct a 3D+HS test sequence while the 2D+HS test sequence requires approximately four days.

In addition, a manufacturer-administered in-use compliance program (i.e., the In-Use Verification Program or "IUVP"[4]) requires manufacturers to procure and emission test a specified number of in-use vehicles on an "as received" basis at certain mileage intervals. Under the IUVP, vehicles must show compliance with the 3D+HS and 2D+HS emission standards; failure to demonstrate compliance may subject the manufacturer to remedial action. In addition, ARB may conduct its own in-use compliance test program of vehicles that have been identified to have a higher probability of non-compliance.

Onboard Refueling Vapor Recovery Emission Procedures

The existing Onboard Refueling Vapor Recovery (ORVR) requirements ensure that hydrocarbon vapors are not released to the atmosphere during the refueling process. The ORVR emission standards for California are applicable to passenger cars, light-duty trucks, and medium-duty vehicles with a gross vehicle weight rating less than 8,501 pounds. Certification compliance with the ORVR standards is demonstrated by a single test sequence. Test preparations involve steps to condition and stabilize the ORVR and fuel system in a similar manner done for the evaporative emission test sequences. The ORVR sequence allows for evaluations of both integrated and non-integrated evaporative/refueling systems[5]. Vehicle certification also requires a demonstration of compliance with the refueling spitback standard. The ORVR test sequence takes three days to conduct.

B. Description of the Proposal

Optional Demonstration of Compliance – Supplemental Two-Day Diurnal Standard for Certification

The primary purpose of the 2D+HS test is to gauge the evaporative emission control system's ability to adequately purge the canister of "trapped" hydrocarbon vapors within a short drive-time period. However, this purge capability can also be demonstrated by the ORVR test. Furthermore, even though other pertinent evaporative information can be obtained under the 2D+HS test, this information can also be obtained by other means (i.e., 3D+HS test.) Consequently, the

---

[4] The In-Use Verification Program was adopted as part of the Compliance Assurance Program ("CAP 2000") amendments included in the LEV II November 5,1998 rulemaking.

[5] An integrated evaporative/refueling system uses a single carbon canister to retain the hydrocarbon vapors produced by both the evaporative and refueling processes. A non-integrated system uses two separate canisters – one for evaporative, and one for refueling emissions. Only integrated systems have been utilized on vehicles to date.

combined results of the 3D+HS and ORVR tests offer a reliable indication of purge capability and overall evaporative emissions compliance. Thus, if a vehicle complies with both the 3D+HS and ORVR emission standards, it is very likely to comply with the 2D+HS standard. Consequently, in practice, the 2D+HS test becomes somewhat redundant for certification purposes.

Accordingly, staff proposes that manufacturers be allowed the option to certify new vehicles to the 2D+HS standard on the basis of an engineering evaluation. This option relieves manufacturers of the need to demonstrate compliance with the standard by the 2D+HS test sequence. A manufacturer must submit a compliance statement at the time of certification, based on good engineering judgment, that the vehicle's canister purges adequately and complies with the 2D+HS emission standard.

Manufacturers that use this option may be requested by the ARB to provide specific data and information used by the manufacturer to ensure adequate purge flow and compliance with the 2D+HS emission standard. This information may include, but be not limited to, canister type, canister volume, canister working capacity, fuel tank volume, fuel tank geometry, fuel delivery system (e.g., returnless, variable flow fuel pump, etc.), description of the input parameters and software strategy used to control canister purge, nominal purge flow volume (i.e., amount of bed volumes) achieved by a test vehicle after a completed 2D+HS dynamometer drive cycle, and nominal purge flow volume achieved by a test vehicle after completion of the 3D+HS dynamometer drive cycles. In addition, although this option would exempt vehicles from demonstrating compliance with the 2D+HS standard during certification, these vehicles would still be liable for complying with the emission standard in-use. Therefore in-use compliance testing would provide added assurance that the canister is purging adequately.

This option is only available for certification of current technology, gasoline- and ethanol-fueled vehicles that are configured with conventional evaporative emission control systems (e.g., conventional fuel tank materials, liquid seal ORVR systems, carbon canisters, etc.). The option is not available when certifying a vehicle with a non-integrated evaporative/refueling system.

Staff believes this option will not result in any loss of stringency of the standards since manufacturers that elect to use this provision must still certify their vehicles to both the 3D+HS and ORVR emission standards; and comply with the 2D+HS and ORVR emission standards in-use. As a check at the time of certification, the ARB could still request a manufacturer to conduct a 2D+HS certification confirmatory test.

Alternative Methods for the Running Loss Test Procedure

Included in the 3D+HS test sequence is the running loss emission test (Evap Test Procedures, Part III.D.8; and Figure 2). The current running loss test procedure specifies two sampling methods. One method uses atmospheric sampling equipment to measure evaporative emissions in a SHED[6] while the test vehicle operates on the specified dynamometer drive cycle. The other method (i.e., point source sampling) uses a hydrocarbon analyzer to measure evaporative emissions at discreet locations in and around the vehicle while it is operated on the specified cycle (Evap Test Procedures, Parts III.D.8.1; III.D.8.2).

Of particular concern using either of the methods described above is the requirement to monitor and control the temperature of the liquid fuel inside of the tank (Evap Test Procedures, Parts III.D.8.1.8; III.D.8.2.4). This temperature control is aided by the installation of two separate temperature gauges, or thermocouples, into the sides of the fuel tank. Two thermocouples are necessary to obtain the average temperature of the liquid fuel. Moreover, they must be installed at critical locations inside of the tank in order to achieve accurate measurements. As a result, the present method is burdensome because the installation is difficult to perform and requires follow-up repairs or complete replacement of the tank. In addition, because of its invasive nature, this method could likely compromise the long-term performance and durability of the vehicle's evaporative emission control system. At this time, the procedures do not prescribe any other method in which to monitor the liquid fuel temperature inside the tank. However, the existing regulations do give manufacturers the option to use their own alternative running loss procedure (including the monitoring of the liquid fuel temperature) if it provides an equivalent demonstration of compliance (Evap Test Procedures, Part III.D.8.3). While this provides flexibility for the manufacturers, the ARB, under the existing regulations, must follow the prescribed procedures for monitoring the liquid fuel temperature. Thus, the existing regulations do not explicitly allow the ARB to deviate from these procedures, even if the manufacturer certified the vehicle using an alternative method. Accordingly, staff proposes to revise the regulations to make it clear that the ARB may approve a manufacturer's proposed alternative running loss test procedure with the understanding that ARB may also perform certification confirmatory tests and any in-use compliance tests with either the existing procedures or the manufacturer's alternative procedure. This revision would align California's procedures with current federal regulations.

Optional Alternative Canister Preconditioning Methods

The carbon canister must be conditioned properly prior to any tests to ensure accurate and representative test results. The evaporative procedures specify

[6] A Sealed Housing for Evaporative Determination or "SHED" is a sealed, instrumented, and environmentally controlled chamber in which evaporative emission tests are conducted.

particular methods to precondition a canister for each type of test. For instance, the 3D+HS test sequence prescribes a series of repeated vapor-load-and-purge steps that are performed on the canister to establish an "in-use" state (i.e., stabilization). This stabilization step is then followed by a prescribed injection of a specific amount of vapor into the canister (i.e., loading). Thus, the stabilization and loading steps together form the canister preconditioning process.

The current evaporative procedures require that the canister remain installed in the test vehicle unless the necessary access to the canister's service ports is not available. In that case, the canister may be removed to allow completion of the basic purge or load processes. Such component removals must be completed carefully so that all of the components remain undamaged and are reassembled properly. Failure to exercise such care can produce leaks or other malfunctions in the system. As a result, the current procedures are burdensome for manufacturers in those situations where the canister is not readily accessible.

Therefore, staff proposes that the evaporative procedures be amended to provide manufacturers an option to use an alternative canister preconditioning method, as applicable. The alternative method must be as, or more, stringent than the comparable method already specified in the procedures. Use of the alternative procedure requires the advance approval of the Executive Officer.

Manufacturers will be required to provide information/data to demonstrate that the alternative method provides at least the current level of stringency throughout the canister preconditioning process. Such information may include, but is not limited to, the canister's service port locations, description of an auxiliary canister, and a description of how vapors are vented. The ARB may use either a manufacturer's alternative preconditioning method or the methods already specified in the evaporative procedures for both certification confirmatory testing and in-use compliance testing.

In-Use Verification Program Evaporative Emissions Test Requirements

The existing California motor vehicle IUVP provisions (with amendments) are patterned after the federal regulations ("California Exhaust Emission Standards and Test Procedures For 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted August 5, 1999, and last amended August 4, 2005 [hereinafter "Exhaust Test Procedures"]; Introductory Paragraph, Part I.I). The IUVP procedures imply that manufacturers must demonstrate compliance with both the 3D+HS and 2D+HS emission standards for all applicable fuel types on each evaporative/refueling family. However, the intent of CAP2000 has historically been that only one evaporative test demonstration (i.e., either the 3D+HS or the 2D+HS, not both) would be required for all applicable fuel types of each evaporative/refueling family under the IUVP

(U.S. EPA 2005; List of Changes To Test Procedures, Evaporative Test Procedure, Item 6). Indeed, the U.S. EPA has amended the federal IUVP regulations to clarify this ambiguity.

Accordingly, staff proposes that the California IUVP provisions be modified to align with the current federal version. The change clarifies the IUVP requirements, and thus decreases the burden of the IUVP compliance for manufacturers. Specifically, the change requires that for gasoline- and ethanol-fueled IUVP vehicles, the 2D+HS test would be used to demonstrate compliance. For liquefied petroleum gas- and non-dedicated compressed natural gas-fueled (i.e., gaseous-fueled) IUVP vehicles, the 3D+HS test would be used. An example of a non-dedicated compressed natural-gas vehicle would be a dual-fueled vehicle that can operate on either gasoline or compressed natural gas.

Onboard Refueling Vapor Recovery and Spitback Test Procedures

The existing California ORVR procedures (with amendments) are patterned after the federal ORVR provisions ("California Refueling Emission Standards and Test Procedures For 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and last amended September 5, 2003 [hereinafter "ORVR procedures"]; Introductory Paragraph). Included within these procedures are specifications for the proper configuration of the canister and fuel tank-vent hose assembly when tested. Specifically, the vent hose is required to be disconnected from the canister while the drain-and-10-percent-fill step of the test sequence is performed (U.S. EPA 2005; List of Changes To Test Procedures, ORVR and Spitback Test Procedure, Item 1). Disconnection of the vent hose allows the fuel tank vapors to be directed to the ambient air when the ORVR precondition steps are performed. Consequently, these vapors are never "loaded" into the canister. However, manufacturers have indicated that the requirement to disconnect the vent hose from the canister is burdensome. The procedure is invasive and increases the possibility of accidental damage to the evaporative emission control system and improper re-assembly of the components. Either of these occurrences can lead to system leakage which will affect the accuracy and/or repeatability of the test results.

Accordingly, staff proposes that the ORVR procedures be revised to make the disconnection of the canister and vent hose assembly optional when those specific drain-and-fill steps are performed. A manufacturer will be required to indicate in the application for certification which type of canister and vent hose assembly configuration will be used for test purposes. The ARB will utilize the same configuration for certification confirmatory test purposes. Use of this option yields a more stringent test method since the fuel tank vapors are now directed to the canister when the preconditioning steps are performed. Hence, these vapors add an extra load to the canister. However, the option serves to reduce the test

burden associated with preconditioning process. The proposal is also consistent with the recent changes to the federal ORVR requirements.

Non-Substantive Changes

Staff proposes minor non-substantive amendments to maintain harmonization with the applicable federal evaporative requirements. In particular, certain test waiver provisions for certification vehicles that relate to the ORVR and refueling spitback tests are added to the ORVR procedures. These provisions, which are contained in the revised federal procedures, were inadvertently omitted from the July 2002 Code of Federal Regulations.

III. PROPOSED FOUR-WHEEL DRIVE DYNAMOMETER AMENDMENTS

A. Background

Chassis dynamometers capable of testing four-wheel drive (4WD) vehicles were not generally available when the existing dynamometer testing procedures and specifications were initially developed. Consequently, the existing regulations contain procedures and specifications for only two-wheel drive (2WD) dynamometers. Thus, when certifying a 4WD vehicle, manufacturers have historically had to reconfigure the vehicle so that it could operate on a 2WD dynamometer. This sometimes requires major modifications to the vehicle's drivetrain and/or electronic controls. In addition, emission test data derived from a reconfigured 4WD vehicle may not be representative of the vehicle's actual on-road (4WD) operation. With the proliferation of 4WD and all-wheel drive (hereinafter included under "4WD") vehicles in recent years, these issues have become a significant concern.

B. Description of the Proposal

California's existing regulations covering chassis dynamometer procedures and specifications are aligned with existing federal regulations (Exhaust Test Procedures; Introductory Paragraph, Part II.A.100.5.3). The U.S. EPA recently revised its regulations to now include procedures and specifications for 4WD dynamometers.

Consequently, staff proposes that the existing California regulations be amended to allow manufacturers to perform certification emission tests of 4WD vehicles on 4WD dynamometers. Also, depending on the vehicle, and with advance Executive Officer approval, manufacturers would still be given the option to certify 4WD vehicles in a 2WD mode of dynamometer operation.

IV. PROPOSED VEHICLE LABELING AMENDMENTS

A. Background

California's existing emission control label requirements for new vehicles and engines (with amendments) are patterned after the federal provisions (Exhaust Test Procedures; Introductory Paragraph, Part I,C.3). The U.S. EPA recently amended those label provisions in order to more accurately reflect recently adopted emission control system requirements. The label provisions contained within the exhaust procedures are applicable to passenger cars, light-duty trucks, and medium-duty vehicles.

B. Description of the Proposal

Some of the information required to be on California's emission control labels is outdated. For example, the requirement for manufacturers to include engine tune-up specifications and adjustments on labels is redundant because contemporary vehicles and engines are electronically controlled such that manual tune-up adjustments are not necessary. The same redundancy applies to the requirement to provide a vacuum hose routing diagram. Any pertinent vacuum hose information will be readily available in the service manuals for vehicles equipped with any vacuum-actuated controls. Also, the requirement to include a machine-readable Vehicle Emission Configuration (VEC) bar code on labels has already been recognized by the ARB as unnecessary (ARB 2002).

Therefore, staff proposes that the label requirements contained within the exhaust procedures be amended. The proposed amendments would align California's label requirements with the latest revisions to the corresponding federal regulations. Specifically, the proposed amendments will eliminate the need for manufacturers to provide label information related to the engine tune-up specifications and adjustments, diagrams of vacuum hose routing, and the VEC bar codes. All other current California label requirements remain in effect. The proposed label content changes should result in an overall decrease in the size of the labels since less information must be displayed. In some instances, it may eliminate the need to install a second, supplemental label. Finally, manufacturers may not need to produce as many different label types because the amendments allow for a more generic format. Staff's proposal provides increased flexibility for the manufacturers without impacting the stringency of the emission control system requirements.

V. REGULATORY ALTERNATIVES

One possible regulatory alternative is to not make any changes to the existing evaporative and exhaust emission test procedures. Staff does not recommend this "no action" alternative because the recent federal changes would not be reflected in the California procedures. This would increase the inconsistency between these procedures, which would increase the test burden on manufacturers. The main intent of these proposed amendments is to reduce the test burden on manufacturers by streamlining the manufacturers' evaporative emission-related certification and IUVP activities. These proposals are the result of several years of ongoing dialogue and cooperation among U.S. EPA and manufacturers. All parties agree that the proposed revisions are mutually beneficial. Therefore, staff believes that there are no other viable regulatory alternatives to the proposed amendments.

VI. AIR QUALITY, ENVIRONMENTAL, AND ECONOMIC IMPACTS

Air Quality and Environmental Impacts

The proposed amendments are primarily intended to streamline the procedure through which new motor vehicles are both evaporative emission certified and in-use vehicles are compliance tested. The other minor amendments that provide 4WD dynamometer provisions and update vehicle label specifications further refine and improve the overall vehicle emission compliance program. The proposal does not change the stringency of the existing procedures or emission standards. Thus, California's air quality will not be affected by these amendments. Further, staff has determined that adoption of the proposed amendments will not result in any significant adverse impacts on water quality, land, or biological resources.

Economic Impacts

The proposed amendments to streamline the evaporative procedures should offer an overall improvement in the efficiency of certification and IUVP processes. Indeed, the proposed amendments serve to reduce the manufacturers' compliance burden through allowances for test waivers and use of alternative methods. The degree of savings will vary depending on a manufacturer's specific use of those waivers or alternatives. In addition, the proposed minor amendments also offer improvements to these processes. Thus, in the aggregate, the proposed amendments result in beneficial economic impacts to the affected manufacturers. Staff expects that the proposed amendments would have no adverse impacts on California employment, business status, or competitiveness.

VII. ENVIRONMENTAL JUSTICE

State law defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Senate Bill 115, Solis; Stats 1999, Ch. 690; Government Code §65040.12(c)). The Board has established a framework for incorporating environmental justice into the ARB's programs consistent with the directives of State law. The policies developed apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low income and minority communities, which sometimes experience higher exposures to some pollutants as a result of the cumulative impacts of air pollution from multiple mobile, commercial, industrial, areawide, and other sources.

Over the past twenty years, the ARB, local air districts, and federal air pollution control programs have made substantial progress towards improving the air quality in California. However, some communities continue to experience higher exposures than others as a result of the cumulative impacts of air pollution from multiple mobile and stationary sources and thus may suffer a disproportionate level of adverse health effects.

Since the proposal does not change the current stringency of the ambient air quality standards for motor vehicles that apply to all regions of the State, all communities, including environmental justice communities, will continue to benefit from the air quality benefits that would be associated with the proposal. To the extent that motor vehicle operation is higher near certain communities, these communities will receive a greater benefit from well-maintained California vehicle fleets.

VIII. STAFF RECOMMENDATION

Staff recommends that the Board adopt, on the basis of the reasons presented, the proposal as set forth within this staff report, and as specifically described in the appendices.

IX. REFERENCES

1. U.S. EPA 2005. United States Environmental Protection Agency. "Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Technical Amendments to Evaporative Emissions Regulations, Dynamometer Regulations, and Vehicle Labeling," United States Environmental Protection Agency; Federal Register, Vol. 70, Page 72917 (December 8, 2005) http://www.epa.gov/fedrgstr/EPA-AIR/2005/December/Day-08/a23714.htm

2. U.S. EPA 2002. United States Environmental Protection Agency. December 31, 2002. United States Environmental Protection Agency, Certification and Compliance Division, Office of Transportation and Air Quality, Request for Comments on Potential Evaporative Regulation Changes; Evaporative Guidance for Certification and In-use Testing. EPACCD-02-02 http://www.epa.gov/otaq/cert/dearmfr/ccd0220.pdf

3. ARB. June 26, 2002. Waiver of Vehicle Emission Configuration (VEC) Bar Code Label Requirement for 2003 Model-Year (MY) and Newer Vehicles and Engines. Mail-Out #MSO 2002-06 http://www.arb.ca.gov/msprog/mailouts/mso0206/mso0206.pdf

INITIAL STATEMENT OF REASONS CHECKLIST

	Govt. Code Section	Requirement
	11346.2(b)(1)	A statement of the specific purpose of each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose for which it is proposed. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.
	11346.2(b)(2)	An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.
	11346.2(b)(3)(A)	A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.
	11346.2(b)(3)(B)	A description of any reasonable alternatives the agency has identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business. It is not the intent of the paragraph to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.
	11346.2(b)(4)	Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

Revised 01/03

	11346.2(b)(5)	A department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshall shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law. (B) The cost of differing state regulations is justified by the benefit to human health, pubic safety, public welfare, or the environment.

Compiling References

In the **ISOR number each reference continuously** as they are listed. Then create a separate document "Master Reference List" of all the references listed in the ISOR. Number each referenced document and put in the order listed in the "Master Reference List". Provide the "Master Reference List" hard copy and electronically with the references.

References to the Technical Support Documents (TSD): Create a separate "Master Reference List" for the TSD references. Use same guidelines as used for the ISOR.

Make sure all names and dates are accurate and that we get the complete document listed.

References listed multiple times: If you reference the same document more than once you do not have to supply multiple copies. Put a place holder indicating what number the duplicate document is under.

References on CD: If you put your references on CD make sure to save them as the file name of the document or assign a file name and identify the file name on the "Master Reference List".

Referencing part of document: When referencing only part of a document indicate specifically what chapter or page numbers you are referencing. Provide a copy of the cover page, index and appropriate chapters listed. Make sure to also include any other chapters necessary to understand the referenced chapters.

Referencing websites: When referencing websites you will need to print out the document in its entirety. Make sure the document date listed on reference list is the date of the document not the date the document was printed out or web site date.

Personal Communication: We do not recommend that you reference personal communication; if you do we suggest you provide a document of the communication (email from person or letter confirming what you discussed.) List name and date of conversation.

Confidential Information: Consult your attorney when referencing "Confidential Information" if it is decided to include confidential information make sure to let the Regulations Coordinator know so that we can handle appropriately.

PLEASE NOTE; The references become part of the official record and will not be returned to you.

We need the complete set of references by the FRIDAY of Notice Filing.

TAB 4

TITLE [13/17]. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ***

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to ***.

DATE:

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

11346.5(a)(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., **[date of hearing]**, and may continue at 8:30 a.m., **[second day of hearing]**. This item may not be considered until **[second day of hearing]**. Please consult the agenda for the meeting, which will be available at least 10 days before **[first day of two-day hearing]**, to determine the day on which this item will be considered.

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 contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed **[adoption/amendment/repeal]** to title **[13/17]**, California Code of Regulations, section(s) * * ***{list each section number out separately.}** ***Be sure to include all documents incorporated by reference with their titles and last amended date.***

Background:

11346.5(a)(3) An informative digest *** drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills. The informative digest shall include the following:

11346.5(a)(3)(A) A clear and concise summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action.

11346.5(a)(3)(C) A policy statement overview explaining the broad objectives of the regulation and, if appropriate, the specific objectives.

COMPARABLE FEDERAL REGULATIONS

11346.5(a)(3)(B) If the proposed action differs substantially from an existing comparable federal regulation or statute, *** a brief description of the significant differences and the full citation of the federal regulations or statutes.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: **[insert title of report]**

11346.5(a)(16) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

11346.5(a)(19) A statement explaining how to obtain a copy of the final statement of reasons once it has been prepared pursuant to subdivision (a) of section 11346.9.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, **[Insert the names of the two contact persons from your Division that can answer questions about the substance of the proposed regulatory action.]**

11346.5(a)(14)(B) An agency person or persons designated to respond to questions on the substance of the proposed regulations, where appropriate.

Further, the agency representative and designated back-up contact persons to who nonsubstantive inquiries concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration & Regulatory Coordination Unit,

(916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

11346.5(a)(14)(A) The agency representative and designated backup contact person to whom inquiries concerning the proposed administrative may be directed.

11346.5(a)(20)(b) The agency representative designated in paragraph 14 of subdivision (a) shall make available to the public upon request the express terms of the proposed action. The representative shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/*** **[Regulations Coordinator will assign]**

11346.5(a)(20) If ARB maintains an Internet website or other similar forum for the electronic publication or distribution of written material, a statement explaining how materials published or distributed through that forum can be accessed.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action **[would/would not]** create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

11346.5(a)(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

11346.5(a)(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.
For purposes of this paragraph, "costs or savings" means additional costs or saving, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
[Will representative private persons be affected by cost impacts for this proposed regulatory action?]

11346.5(a)(9) A description of all cost impacts, known to ARB at the time the notice of proposed action is submitted to OAL, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
If no cost impacts are known to ARB, state the following:
****** "The ARB is not aware of any cost *** impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action."***

The Executive Officer has made an initial determination that the proposed regulatory action **[would/would not]** have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.
11346.5(a)(7) If a state agency, in proposing to adopt, amend, or repeal any administrative regulation, *** makes an initial determination that the action may have a significant, statewide adverse economic impact *** directly affecting business, including the ability of California business to compete with business in other states, it shall include the following information in the notice of proposed action:

11346.5(a)*7)(A) Identification of the types of businesses that would be affected.
11346.5(a)(7)(B) A description of the projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action.
11346.5(a)(7)(C) The following statement: "The ARB *** has made an initial determination that the adoption/amendment/repeal of this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The ARB has/has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposal. Submissions may include the following considerations:

- ***(i) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to businesses.***
- ***(ii) Consolidation or simplification of compliance and reporting requirements for businesses.***
- ***(iii) The use of performance standards rather than prescriptive standards.***
- ***(iv) Exemption or partial exemption from the regulatory requirements for businesses."***

11346.5(a)(8) If a state agency, in adopting, amending or repealing any administrative regulation, *** makes an initial determination that the action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect in the notice of proposed action. In making this declaration, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support *** its initial determination.
An agency's initial determination and declaration that a proposed adoption, amendment, or repeal of a regulation may have or will not have a significant, adverse impact on businesses, including the ability of California business to compete with businesses in

other states, shall not be grounds for OAL to refuse to publish the notice of proposed action.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action **[would/would not]** affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

11346.5(a)(10) A statement of the results of the assessment required by subdivision (b) of section 11346.3.

11346.3(b)(1) All state agencies proposing to adopt, amend, or repeal any administrative regulations shall assess whether and to what extent it will affect the following:
(A) The creation or elimination of jobs within the State of California.
(B) The creation of new business or the elimination of existing businesses within the State of California.
(C) The expansion of businesses currently doing business within the State of California.

11346.3(b)(3) Information required from state agencies for the purpose of completing the assessment may come from existing state publications.

11346.5(a)(11) The finding prescribed by subdivision (c) of section 11346.3, if required.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action **[would/would not]** affect small businesses **[if no affect, "because ***.**

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California. **[Necessary if there are any reporting requirements.]**

11346.5(a)(11) The finding prescribed by subdivision (c) of Section 11346.3, if required.

11346.3(c) No administrative regulation adopted on or after 1/1/93, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state of the state that the regulation apply to businesses.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

11346.5(a)(13) A statement that the ARB must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, [date-day before meeting begins],** and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal : http://www.arb.ca.gov/lispub/comm/bclist.php

Facsimile submittal: (916) 322-3928

11346.5(a)(15) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections **[Insert the appropriate authority references from the regulation text here.]** This action is proposed to implement, interpret and make specific sections **[Insert the appropriate reference sections from the regulation text here.]**

11346.5(a)(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

11346.5(a)(18) A statement indicating that the full text of a regulation changed pursuant to section 11346.8 will be available for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814,
(916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date:

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web –site at www.arb.ca.gov.

EXAMPLE

45-DAY HEARING NOTICE

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE PROPOSED ADOPTION OF A TEST PROCEDURE FOR PRESSURE/VACUUM VENT VALVES AND PROPOSED AMENDMENTS TO THE REGULATIONS FOR CERTIFICATION OF VAPOR RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES (SERVICE STATIONS)

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations for certification of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities).

DATE: May 25, 2006

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., May 25, 2006, and may continue at 8:30 a.m., May 26, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before May 25, 2006, to determine the time when this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 94011, title 17, California Code of Regulations (CCR), and the incorporated certification and test procedures: Definitions for Vapor Recovery Procedures, D-200, last amended October 8, 2003; Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities, CP-201, last amended February 9, 2005; Bend Radius Determination for Underground Storage Tank Vapor Return Piping, TP-201.2G, adopted October 8, 2003; Test Procedure for In-Station Diagnostic Systems, TP-201.2I, adopted October 8, 2003; and

the proposed adoption of incorporated test procedure: Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, TP-201.1E CERT.

Background: Throughout California, ARB authorizes the sale, installation, and use of vapor recovery equipment at service stations, also referred to as gasoline dispensing facilities (GDF), through a certification program. Control of the emissions of air pollutants from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. In March 2000, ARB approved the Enhanced Vapor Recovery (EVR) certification regulations. The EVR regulations established new standards for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs that use underground storage tanks for gasoline storage. The EVR standards apply to both new and existing facilities and are being phased in from 2001 to 2010. The EVR regulations have been previously updated in 2001, 2002, and 2004, in part, to improve test procedures for vapor recovery system certification.

Staff's Proposal: Assembly Bill 2955, enacted in September 2004, requires, among other provisions, that the State Water Resources Control Board determine whether equipment undergoing certification to meet the EVR regulations also meets the underground storage tank statutory requirements as specified in Health and Safety Code section 25290.1.2. The staff proposes that the Certification Procedure for Vapor Recovery at Gasoline Dispensing Facilities (Certification Procedure or CP-201) be amended to reflect this new requirement.

Vapor recovery equipment manufacturers have requested that the EVR regulations be amended to more clearly define and simplify the process for certification. Staff has proposed changes to CP-201 to expand and clarify the certification process, particularly to address the process when equipment manufacturers wish to modify or add alternative components to certified vapor recovery systems.

Concern that the pressure/vacuum (P/V) vent valve (a component of the vapor recovery system) specifications are more stringent than necessary has prompted some stakeholders to request that the certification specifications for P/V vent valves be amended. The concern stems from the delay or termination of system certification testing when P/V vent valves have exceeded the limits of the performance specifications. Staff is proposing modifications to the current performance specifications for cracking pressure and leak rate to better reflect appropriate P/V valve performance needs under actual field conditions. Staff is also proposing adoption of a new test procedure, "Vapor Recovery Test Procedure for Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves" (TP-201.1E CERT). The test procedure is intended for use during certification testing and will result in a more accurate, precise, and representative test of P/V vent valves.

The Certification Procedure allows ARB's Executive Officer to delay implementation of the scheduled phased-in of EVR standards and specifications under specified

conditions. Executive Officer action in Executive Order G-70-206 delayed the implementation dates associated with some of the EVR requirements to April 1, 2005.

Also, the effective and operative dates for in-station diagnostics in GDFs with gasoline throughput greater than 1.8 million gallons per year were changed by Executive Order to August 1, 2005, and September 1, 2005, respectively (by Executive Officer action in Executive Order G-70-207 and Executive Officer action in Executive Order G-70-208, respectively). These delaying actions are not currently reflected in the regulations. The proposed action would update CP-201's schedule for the phase-in of EVR requirements.

Staff also proposes some reorganization of, and amendments to, CP-201 to improve clarity and readability. Likewise, staff proposes amendments to the definitions in D-200 to clarify and add terms used in the vapor recovery certification and test procedures.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline vapor recovery systems for service stations; however, changes to ARB's vapor recovery regulations have a national impact. The use of ARB-certified systems and equipment is required in most other states that require vapor recovery at service stations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider the Adoption of a Test Procedure for Pressure/Vacuum Vent Valves and Proposed Amendments to the Regulations for Certification of Vapor Recovery Systems at Gasoline Dispensing Facilities (Service Stations)."

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on May 25, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Requests for printed documents and inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr.

Kevin Mongar, Mr. Pat Bennett, or Mr. George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at http://www.arb.ca.gov/regact/pvvapor06/pvvapor06.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer is not aware of any costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Although not quantifiable, cost savings for vapor recovery equipment manufacturers may occur due to 1) proposed changes to the certification requirements (potentially fewer terminated certification tests), 2) proposed changes to the P/V valve performance specifications and test procedure (potentially fewer terminated certification tests), and 3) proposed improvements in the certification process (more clearly defined and simplified). Cost savings for GDF operators may occur when conducting P/V valve testing under the amended P/V valve performance specifications as there may be fewer test failures and P/V valve replacements. A complete assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings, to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, except as discussed above, or other nondiscretionary savings to state or local agencies.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action affects small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing, or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received no later than
12:00 noon May 24, 2006, and addressed to the following:

Postal Mail is to be sent to:

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

Electronic submittal : http://www.arb.ca.gov/lispub/comm/bclist.php **no later than 12:00 noon, May 24, 2006.**

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, May 24, 2006.**

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The

ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 25290.1.2, 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 25290.1.2, 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

California Air Resources Board

Catherine Witherspoon
Executive Officer

Date: March 28, 2006

TAB 5

Internal Review Procedures
45-DAY NOTICE PACKAGE

The 45-day Notice Package is to be submitted to the Regulations Coordinator after division approval. The Notice Package includes:

A. Notice
B. Staff Report: Initial Statement of Reasons (ISOR)
C. Technical Support Document (TSD)
D. Proposed Regulation Order
E. All Attachments
F. Economic and Fiscal Impact Statement/Cal/EPA Summary
G. And, **ALL REFERENCES** listed in the (ISOR/TSD)

The Regulations Coordinator will then route the Notice Package to the following people:

1. BARCU Manager
2. Assigned Attorney
3. General Counsel
4. Appropriate Deputy
5. Executive Officer
6. and back to the Regulations Coordinator for submittal to OAL for publication in the California Regulatory Notice Register

The regulations coordinator proofreads the package and maintains the **final version** of the documents electronically in legal. The Public Hearing Notice, staff report and proposed regulation order are posted on ARB's Regulation Activity Website by the publication date of the notice (which is 10 days after filing it with OAL).

NOTE: It is very important to receive the references at the time the notice package is due the Regulations Coordinator. So, make a file of your references as you are writing your ISOR. It is a legal part of the rulemaking file.

Notice Publication Day

Ten days after OAL receives the Hearing Notice it is published in the California Regulatory Notice Register. (See Example)

In order to comply with the APA the following must happen on Notice Publication Day:

Regulations coordinator will ensure:
All Regulatory Documents are posted on webpage listed in notice.
Notice has been mailed out to the PIO-5 mailing list.
Broadcast to board-notice list serve.

Staff will ensure:
Complete set of references are given to Regulations Coordinator for availability by public.
20 copies of the staff report are available in the 1st floor Visitors Center.

GRAY DAVIS, GOVERNOR

OFFICE OF ADMINISTRATIVE LAW

California Regulatory Notice Register

REGISTER 2002, NO. 13-Z PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW MARCH 29, 2002

PROPOSED ACTION ON REGULATIONS

Page

TITLE 5. BOARD OF EDUCATION
Mathematics and Reading Professional Development—Notice File No. Z02-0319-06 647

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
High Voltage Electrical Safety Orders (Electronic News Gathering); General Industry Safety Orders (Oxygen or Fuel-Gas Operator Training Instructions)—Notice File No. Z02-0312-05 649

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
Employer's Report of Occupational Injury or Illness—Notice File No. Z02-0319-03 655

TITLE 10. DEPARTMENT OF CORPORATIONS
California Residential Mortgage Lending Act (CRMLA)—Notice File No. Z02-0312-01 658

TITLE 10. DEPARTMENT OF INSURANCE
Direct Repair Programs and Labor Rate Surveys—Notice File No. Z02-0318-03 661

TITLE 13. DEPARTMENT OF MOTOR VEHICLES
Administrative Fee for Returned Checks—Notice File No. Z01-0318-01 664

TITLE 13. DEPARTMENT OF MOTOR VEHICLES
T of Information—Notice File No. Z01-0318-02 666

TITLE 13. AIR RESOURCES BOARD
Diesel Retrofit Verification—Notice File No. Z02-0319-02 667

TITLE 14. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
Compostable Materials—Notice File No. Z02-0319-04 670

TITLE 14. CALIFORNIA RESOURCES AGENCY
CEQA List of Certified Programs—Notice File No. Z02-0319-07 673

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE
Daily and Ongoing Administration of the Department When Dealing With the Public—Notice File No. Z02-0319-01 67

(Continued on next page)

CS000102001 03132002 NR 1
MARK EDWARDS
STATE AIR RESOURCES BOARD
PO BOX 2815
SACRAMENTO CA 5-04

Time-Dated Material

GENERAL PUBLIC INTEREST

'ARTMENT OF TOXIC SUBSTANCES CONTROL
of Consent Decree—Mobile Smelting Site, Mojave, California 67

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Notice of Intent to List Chemicals 678

DECISION NOT TO PROCEED

DEPARTMENT OF CONSERVATION
Notice of Violation 679
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Permanent Rooftop Installations—Use of Roof Tie-backs on Buildings 679

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS
Regarding the Petition of Raymond Lambirth 679

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 680
Sections Filed, November 14, 2001 to March 20, 2002 683

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing otices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the 'alifornia Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *'alifornia Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, ıat issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of 'uministrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State ıishing and is offered by subscription for $302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid ıcramento, CA and additional mailing offices. POSTMASTER: Send address changes to the: CALIFORNIA EGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, ıcramento, CA 95814-0212.

List Serve Procedures and Information

List Serve Address and Email Comments

The Regulations coordinator will set up a list serve so the public can submit written comments electronically. The Clerk of the Board receives the comments and will post the comments on the website listed below and route copies to the division contact person.

To view all comments received for your item go to
http://www.arb.ca.gov/lispub/comm/bclogs.php (Example 1)

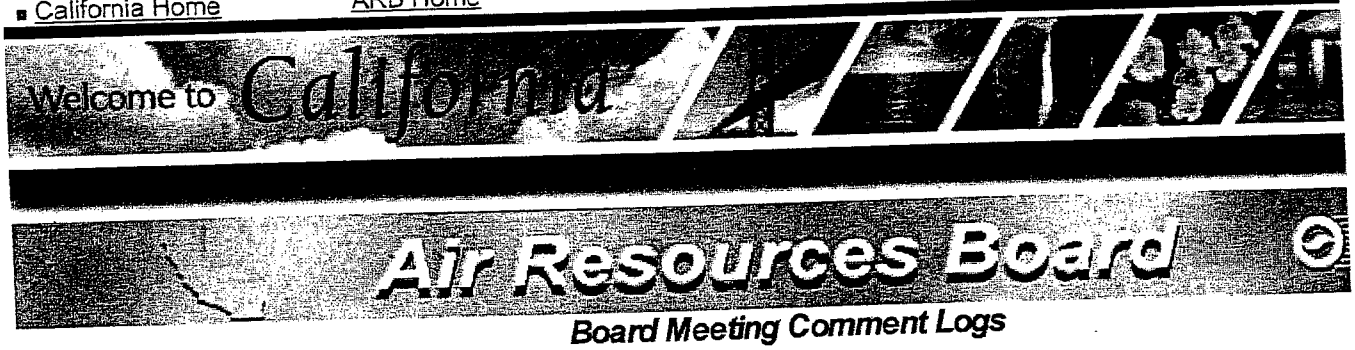
List Serve Broadcast

On the notice publication date the Regulations Coordinator will broadcast to all those people who subscribed to the board -notices list serve.

Regulatory Web Site

On the notice publication date the Regulations Coordinator will post all regulatory documents on the rulemaking website listed in the notice. The web address is assigned by the Regulations Coordinator.

To view regulatory documents for your item go to
http://www.arb.ca.gov/regact/regact.htm (Example 2)



Board Meeting Comment Logs

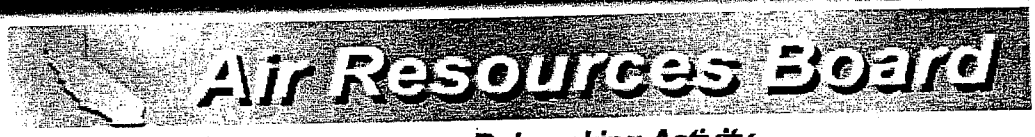
Please Select the Comment Log You Wish to Display.

Sorted by List Name	Sort by Hearing Date	Item Description
cmvsip06	06/22/2006	California Motor Vehicle Service Information . . . more info
ets2006	01/26/2006	Environmental Tobacco Smoke 2006 . . . more info
evap2006	06/22/2006	Streamline Evaporative and Exhaust Emissions Test Procedures 2006 . . .
gmerp06	04/20/2006	Ports and Goods Movement Plan 2006 . . . more info
hdvip2006	01/26/2006	15-day Heavy Duty Vehicle Inspection Program 2006 . . . more info
lore2006	05/25/2006	Forklifts and Other Industrial Equipment 2006 . . . more info
ohrv2006	07/20/2006	Off-Highway Recreational Vehicles . . . more info
perc06	05/25/2006	Perchloroethylene Dry Cleaning Operations 2006 . . . more info
perp06	06/22/2006	Portable Equipment Registration Program . . . more info
pvvapor06	05/25/2006	Vapor Recovery Systems at Gasoline Dispensing Facilities 2006 . . . mor
ry2006	01/26/2006	Railyard Memorandum of Understanding 2006 . . . more info
schoolbus06	02/23/2006	Lower-Emissions School Bus Program Guidelines and the Allocation of 2 2006 . . . more info
verpro06	03/23/2006	Verification Procedure, Warranty and In-Use Compliance Requirements Strategies to Control Emissions from Diesel Engines 2006 . . . more info

If you have any questions or comments please contact COTB at (916) 322-5594.

Board Comments Home

Top of Page



Rulemaking Activity

This page updated December 8, 2005.

Subscribe to ARB's List Serve for Board Meeting Agendas and 45-Day Notices

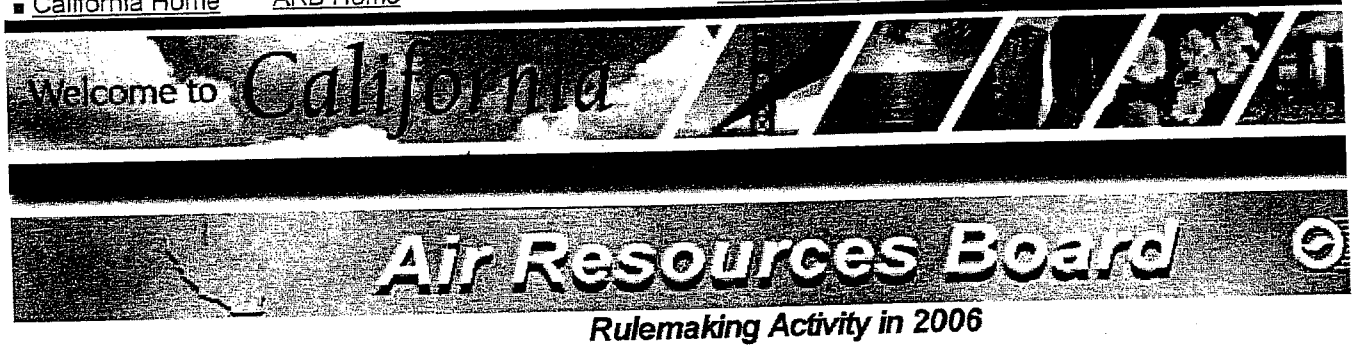
OR

Send Us Your Comments on Pending Rulemakings

The Air Resources Board (ARB) is responsible for conducting rulemakings to adopt a regulations covering a variety of areas. For an alphabetical listing of ARB rulemaking considered in a particular year, with links to the rulemaking documents, click below.

- Rulemaking Items Heard or to be Heard in 2006
- Rulemaking Items Heard in 2005
- Rulemaking Items Heard in 2004
- Rulemaking Items Heard in 2003
- Rulemaking Items Heard in 2002
- Rulemaking Items Heard in 2001
- Rulemaking Items Heard in 2000
- Rulemaking Items Heard in 1999
- Rulemaking Items Heard in 1998
- Rulemaking Items Heard in 1997
- Rulemaking Items Heard in 1996

If you would like to learn about the rulemaking process, please click on our pamphlet



Rulemaking Activity in 2006

This page updated June 1, 2006.

Send Us Your Board Item Comments

The 2006 Rulemaking Calendar presents the proposed schedule for rulemaking activity within the ARB for the

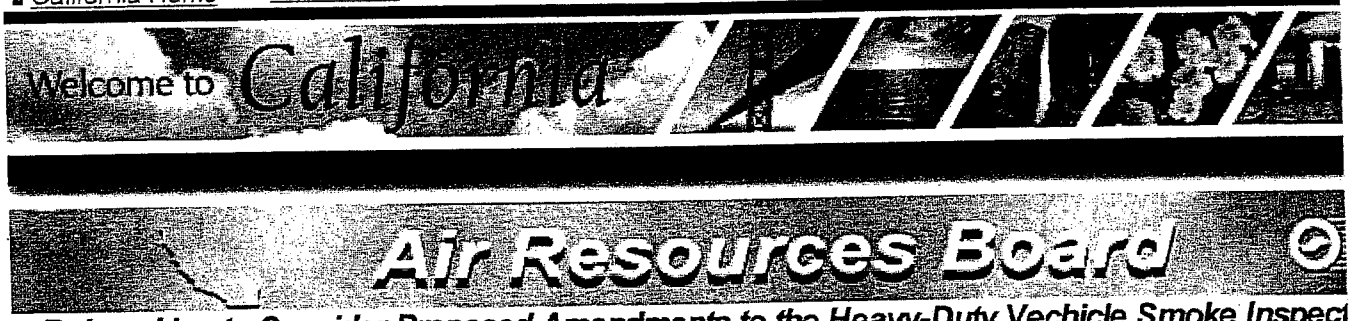
- 2006 Regulatory Rulemaking Calendar (PDF - 35K)

The following **alphabetical list** of all ARB rulemaking projects considered at 2006 Board hearings, along with t the hearing, provides links to the rulemaking documents for each item.

California Motor Vehicle Service Information (**Hearing Date:** June 22, 2006)	[docum
Evaporative and Exhaust Emissions Test Procedures (**Hearing Date:** May 25, 2006, Postponed to June 22, 2006)	[docum
Environmental Tobacco Smoke as a Toxic Air Contaminant (**Hearing Date**: January 26, 2006)	[docum
Heavy-Duty Vehicle Smoke Inspection Program (Implementation of Assembly Bill 1009, Pavley 2004, Chapter 873) (**Hearing Date**: January 26, 2006)	[docum
New Emission Standards, Fleet Requirements, and Test Procedures for Forklifts and other Industrial Equipment (**Hearing Date:** April 20, 2006, Postponed to May 25, 2006)	[docum
Off-Highway Recreational Vehicles and Engines (**Hearing Date:** July 20, 2006)	[docum
Perchloroethylene Dry Cleaning Operations (**Hearing Date:** May 25, 2006)	[docum
Portable Equipment Registration Program (**Hearing Date:** June 22, 2006)	[docum
Vapor Recovery Systems at Gasoline Dispensing Facilities (Service Stations) (**Hearing Date:** May 25, 2006)	[docum
Verification Procedure, Warranty and In-Use Compliance Requirements for In_Use Strategies to Control Emissions from Diesel Engines (**Hearing Date**: March 23, 2006)	[docum

---

If you have questions or comments regarding the above regulatory activity, but were unable to contact the indiv as the contact for that rulemaking project, please contact Alexa Malik at (916) 322-4011 or via email at amalik@



Rulemaking to Consider Proposed Amendments to the Heavy-Duty Vechicle Smoke Inspect
(Implementation of Assembly Bill 1009, Pavley 2004, Chapter 873)

This page updated May 10, 2006.

RULEMAKING TO CONSIDER PROPOSED AMENDMENTS TO THE HEAVY-DUTY VEHIC INSPECTION PROGRAM (IMPLEMENTATION OF ASSEMBLY BILL 1009, PAVLEY 2004, 873) (JANUARY 26, 2006)

Public Comments Received

FINAL APPROVAL/OAL ACTION

This stage has not yet been reached.

ADOPTED REGULATIONS AND MATERIALS SUBMITTED TO OAL

This stage has not yet been reached.

A business or person submitting a comment to a proposed regulation or proposed ame repeal of a regulation or any person who specifically request it has the right to request Final Statement of Reasons (FSOR). Upon its completion, the Final Statement of Reaso will be available and copies may be requested from the agency contact persons, or ma in electronic form from this web page.

HEARING ACTION AND SUPPLEMENTAL 15 DAY NOTICES

Posted May 10, 2006
Notice of Public Availability of Modified Text (PDF - 12K)
May 26, 2006 Deadline for Public Comment

- Attachment I ~ Resolution 06-2 (PDF - 30K)
- Attachment 2 ~ Proposed 15-Day Changes to the Proposed Regulation Order (PDF - 77

PUBLIC HEARING NOTICE AND RELATED MATERIAL

Public Hearing Notice (PDF - 106K)

Eratta (PDF - 6K)

Staff Report: Initial Statement of Reasons (ISOR) (PDF - 278K)

APPENDIX A: AB 1009 Legislation (PDF- 106K)
APPENDIX B: NAFTA Provisions
APPENDIX C: Proposed Regulation Order (PDF- 45K)

INFORMAL REGULATORY ACTIVITY

None

Top of Page

TAB 6

TEMPLATE

"PROPOSED" RESOLUTION WITH 15-DAY MODIFICATION

[PROPOSED][PROPOSED WITH 15-DAY MODIFICATIONS]

State of California
AIR RESOURCES BOARD

Resolution [__-__]

[Date of Hearing]

Agenda Item No.: [__-__-__]

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, **[identify other statutes, regulations, court decisions which pertain to the proposed regulatory action. Generally you will use a separate "whereas" clause for each provision]**;

WHEREAS, **[state any factual background information or circumstance relating to the reason for proposing the regulatory action]**;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, the Board finds that:

[State the basis for the action to be taken. Use as many separate clauses as necessary. Be thorough];

WHEREAS, the Board further finds that:

[State findings relating to environmental impacts, including finding of overriding considerations if there are unmitigatable adverse environmental impacts];

**** Use the following clause if there are no 15-day changes ****

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts section[s] ____ [and ____, Title[s] __ [and __], California Code of Regulations, as set forth in Attachment A hereto.

**** Use following two clauses if there are 15-day changes ****

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section[s] ____ **[and ____]**, Title[s] __ **[and __]**, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section[s] ____ **[and ____]**, Title[s] __ **[and __]**, California Code of Regulations, after making the modified regulatory language **[and additional supporting documents and information]** available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification **[and additional supporting documents and information]** as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

**** Use the following four paragraphs for ****
**** motor vehicle standards and test procedures ****

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations adopted herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the California emission standards and test procedures as adopted herein will not cause the California requirements to be inconsistent with section 202(a) of the Clean Air Act and raise no new issues affecting previous waiver determinations of the Administrator of the Environmental Protection Agency pursuant to section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the regulations to the Environmental Protection Agency with a request for a waiver or confirmation that the regulations are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the Clean Air Act, as appropriate.

ATTACHMENT A

1. Adopt section ____, Title[s] __ [and __], California Code of Regulations, to read as follows:[1]

[section no]. If the original proposal is shown in italics, 15-day changes should be indicated as follows: Additions to the original proposal are shown by underline; deletions from the original proposal are shown by ~~slashes~~.

NOTE: Authority cited: section[s] [39600][, 39601][, _____ and _____], Health and Safety Code. Reference: section[s] [39002][, 39003][, _____ and _____], Health and Safety Code[; section _____, [Vehicle] Code].

2. Amend section ____, Title[s] __ [and __], California Code of Regulation, to read as follows:

[section no]. If the original proposal used italics and ~~strikeout~~, the 15-day changes should be indicated in the same manner as described above, i.e., underline and ~~slashes~~. If the original proposal used underline to show new language, the modifications should be indicated using *italics* and ~~slashes~~, and the footnote describing how the modifications are indicated should be amended as appropriate.

NOTE: Authority cited: sections [39600, ~~and~~ 39601 *and 39605*], Health and Safety Code. Reference: section [_____], Health and Safety Code[; section[s] ____ [and ____], [Government] Code].

[1] The original proposal to shown in *italics* to indicate additions to and ~~strikeout~~ to indicate deletions from existing regulation. The modifications approved by the Board are shown by underline to indicate additions to and ~~slashes~~ to indicate deletions from the original proposal.

Internal Review Procedures
RESOLUTIONS

PROPOSED RESOLUTIONS

Proposed resolutions are submitted to LEGAL from the division and must have a disk and all attachments included. The "Proposed" resolutions require a pink routing/approval slip and should be routed for approval as follows:

1. Division Chief
2. Regulations Coordinator
3. BARCU Manager
4. Assigned Attorney
5. General Counsel
6. Appropriate Deputy
7. Executive Officer
8. Regulations Coordinator who then makes copies for the Board Hearing.

The regulations coordinator proofreads, reformats and files the ***"final proposed resolution"*** in LEGAL's shared drive. The appropriate attorney reviews and signs the pink route slip. The attorney then routes to the General Counsel for approval. After the General Counsel has signed off, her secretary makes a pending copy for Legal and routes the resolution package to the appropriate deputy. When the proposed resolution has reached its final approval in the Executive Office, it gets returned to the regulations coordinator in Legal who then has copies made for the Board Hearing.

NOTE The proposed resolutions need to be approved by the division and submitted to LEGAL for final approval **20 DAYS** prior to the Board Hearing.

FINAL RESOLUTIONS

Post-hearing resolutions are initiated by the regulations coordinators. The regulations coordinators will try to finalize the resolutions the Monday following the Board Hearing. The electronic version of the final proposed resolution(s) are maintained in LEGAL's appropriate files. The "PROPOSED" is deleted on the first page and the Clerk of the Board certification is added at the end of the resolution as follows:

Boilerplate Findings for Resolutions

ARB Commitment – State Implementation Plan:

WHEREAS, the State Implementation Plan (SIP) for ozone, adopted by the Board in 1994 and approved by the United States Environmental Protection Agency (U.S. EPA) in 1995, established the state strategy for attaining the ambient air quality standards for ozone in all areas of the state by 2010, as required by federal law;

ARB Authority:

WHEREAS, sections 39002 and 39003 of the Health and Safety Code charge the Air Resources Board (ARB or Board) with the responsibility for systematically attacking the serious air pollution problem caused by motor vehicles;

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Board to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Health and Safety Code sections 39600 and 39605 authorize the Air Resources Board (the "Board" or "ARB") to act as necessary to execute the powers and duties granted to and imposed upon the Board and to assist the local air pollution control and air quality management districts;

WHEREAS, in sections 43000 and 43000.5 of the Health and Safety Code, the Legislature declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state and that despite significant reductions in vehicle emissions in recent years, continued growth in population and vehicle miles traveled throughout California have the potential not only to prevent attainment of the state standards, but in some cases, to result in worsening of air quality;

WHEREAS, section 43018 of the Health and Safety Code authorizes the Board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards for ambient air quality at the earliest practicable date;

WHEREAS, sections 43101 and 43104 of the Health and Safety Code authorize the Board to adopt emission standards and test procedures to control air pollution caused by motor vehicles;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the Board has determined, in accordance with the California Environmental Quality Act and board regulations, that the proposed standards and regulations will not have significant adverse environmental impacts;

EPA Waivers:

WHEREAS, the U.S. Environmental Protection Agency on [date], approved California's request for a waiver of preemption under section 209(b) of the Federal Clean Air Act for the [title] regulations (Federal Register reference);

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the amended regulations to the U.S. Environmental Protection Agency with a request either for a waiver of federal preemption pursuant to section 209(b) of the Clean Air Act, or a confirmation that the amendments are within the scope of previous waivers.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward title 13, CCR, section 1968.2 to the Administrator of the Environmental Protection Agency with a request that requirements set forth therein and the enforcement provisions of title 13, CCR, section 1968.5 be found to be within the scope of the existing waiver that has been granted under section 209(b) of the Clean Air Act for Title 13, CCR, section 1968.1.

BE IT FURTHER RESOLVED that the Board finds that the regulations approved herein will not cause the California emission standards and test procedures for new motor vehicles to be inconsistent with section 202(a) of the Clean Air Act and raise no new issues affecting previous waiver determinations of the Administrator of the U.S. EPA pursuant to section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that the Executive Officer shall, upon adoption, forward the amended regulations to the U.S. Environmental Protection Agency with a request either for a waiver of federal preemption pursuant to section 209(b) of the Clean Air Act, or a confirmation that the amendments are within the scope of previous waivers, as appropriate.

BE IT FURTHER RESOLVED that the Board hereby determines that pursuant to section 209(b) of the Clean Air Act sections 1968.2 and 1968.5 do not undermine California's previous determinations that the State's standards are in the aggregate, at least as protective of the public health and welfare as applicable federal standards or that requirements and procedures are inconsistent with section 202(a) of the Clean Air Act and do not raise any new issues.

Board Action:

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that the Board may delegate any duty to the Executive Officer which the Board deems appropriate and that any power, duty, purpose, function, or jurisdiction which the Board may lawfully delegate shall be conclusively presumed to have been delegated to the Executive Officer unless the Board has expressly reserved such authority onto itself;

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board hereby determines that the regulations approved herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves [adoption/amendment/repeal] of section(s) *****, title [13/17], CCR, as set forth in Attachment B hereto.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts [adoption/amendment/repeal] of section(s) *****, title [13/17], CCR, as set forth in Attachment B hereto.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the report entitled "[title of Report]" dated [date], and directs the Executive Officer to submit the report to the Legislature as soon as possible.

Emergency Regulations:

IT IS FURTHER ORDERED that the regulations be submitted to the Office of Administrative Law as emergency regulations for the reasons set forth in the "Finding of Emergency," which is incorporated by reference herein.

IT IS FURTHER ORDERED that staff is directed to complete the procedures necessary for compliance with Government Code section 11346.4(e) as expeditiously as possible, and file the Certificate of Compliance within the 120-day period specified therein, thus formally adopting this emergency regulation.

IT IS FURTHER ORDERED that the regulations be submitted to the OAL prior to the expiration of the emergency regulations, along with a request for an early effective date to ensure regulatory continuity.

[Proposal #, title, and proposal amount]

NOW, THEREFORE BE IT RESOLVED, that the Air Resources Board, pursuant to the authority granted by Health and Safety Code section 39703, hereby accepts the recommendation of the Research Screening Committee and approves the following:

BE IT FURTHER RESOLVED, that the Executive Officer is hereby authorized to initiate administrative procedures and execute all necessary documents and contracts for the research effort proposed herein, and as described in Attachment A, in an amount not to exceed [$$$].

EXAMPLE

"PROPOSED" RESOLUTION

WHEREAS, in accordance with Health and Safety Code section 39666(c), the requirements of the ATCM have been designed, in consideration of the factors specified in Health and Safety Code section 39665(b), to reduce emissions of asbestos to the lowest levels achievable through application of BACT;

WHEREAS, based on comments received during the 45-day comment period prior to the public hearing, staff has proposed modifications to the original proposal; these modifications are set forth in Attachment B to this resolution;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the proposed ATCM was made available to the public for review and comment, and concepts and drafts of the ATCM were discussed at public consultation meetings on November 16, 1999, February 4, 2000, November 28, 2000, March 12, 2001, and May 15, 2001;

WHEREAS, in consideration of the staff report, written comments, and public testimony it has received, the Board finds that:

> Existing federal, State, and local regulations do not sufficiently protect the public health from sources of naturally-occurring asbestos;
>
> Construction, grading, quarrying, and surface mining operations where naturally-occurring asbestos is present may result in potentially harmful concentrations of asbestos fibers being entrained in the air, and these asbestos fiber concentrations may pose a significant health risk to exposed members of the public;
>
> The proposed ATCM would substantially reduce asbestos emissions from the disturbance of naturally-occurring asbestos-containing material during construction, grading, quarrying, and surface mining operations;
>
> The proposed ATCM complies with the requirements of the State law for control of sources of toxic air contaminants identified by the Board;
>
> The provisions of the proposed ATCM constitute the best available control technology, as required by Health and Safety Code section 39666(c) and, also constitute a pollution prevention measure;

PROPOSED WITH 15-DAY MODIFICATIONS

State of California
AIR RESOURCES BOARD

Resolution 01-28

July 27, 2001

Agenda Item No.: 01-6-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, on March 27, 1986, the Board identified asbestos (in the following forms: asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), tremolite, actinolite, and anthophyllite) as a toxic air contaminant pursuant to Article 3 (commencing with section 39660), Chapter 3.5, part 2, Division 26 of the Health and Safety Code;

WHEREAS, the Board determined that there is not sufficient available scientific evidence to support identification of a threshold exposure level for asbestos below which no significant adverse health effects are anticipated (see title 17, California Code of Regulations (CCR), section 93000);

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants for which the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires ATCMs to be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment to public health;

WHEREAS, monitoring studies in California and Virginia have demonstrated that elevated levels of airborne asbestos are found near grading, construction, quarrying and surface mining operations where naturally-occurring asbestos is known to be present;

The ARB has considered the combined cumulative environmental impacts of the proposed ATCM and the July 2000 Asbestos ATCM for Surfacing Applications, and has determined that the cumulative adverse impacts that will result from the two ATCMs are statewide emission increases per year of approximately 591 to 691 pounds of diesel particulate matter, 3,900 to 4,100 pounds of carbon monoxide, 11,800 to 13,800 pounds of nitrogen oxides, and 6,300 to 6,500 pounds of hydrocarbons;

Except for the cumulative emissions impacts described above, there are no significant cumulative adverse environmental impacts that will occur from the two ATCMs identified above;

The emission increases described above are extremely small, but could nevertheless constitute an adverse environmental impact;

The proposed ATCM is necessary in order to protect public health by reducing asbestos emissions from the disturbance of naturally-occurring asbestos during construction, grading, quarrying, and surface mining operations;

The considerations identified above override any adverse environmental impacts that may occur from an increase in heavy-duty vehicle emissions; and

There are no feasible mitigation measures or alternatives that would reduce the potential adverse environmental impacts, while at the same time ensuring that the positive environmental impacts (i.e., a reduction in asbestos emissions) would be achieved.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed section 93105, title 17, CCR, as set forth in Attachments A and B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the ATCM set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, 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 regulation to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer, in consultation with the Department of Conservation, to assist the air pollution control districts and air quality management districts to:

Resolution 01-28

July 27, 2001

Identification of Attachments to the Board Resolution

Attachment A: Proposed Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations (section 93105, title17, California Code of Regulations), as set forth in Appendix A to the Initial Statement of Reasons, released June 8, 2001.

Attachment B: Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on July 27, 2001).

EXAMPLE

"FINAL" RESOLUTION

State of California
AIR RESOURCES BOARD

Resolution 01-28

July 27, 2001

Agenda Item No.: 01-6-7

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, on March 27, 1986, the Board identified asbestos (in the following forms: asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), tremolite, actinolite, and anthophyllite) as a toxic air contaminant pursuant to Article 3 (commencing with section 39660), Chapter 3.5, part 2, Division 26 of the Health and Safety Code;

WHEREAS, the Board determined that there is not sufficient available scientific evidence to support identification of a threshold exposure level for asbestos below which no significant adverse health effects are anticipated (see title 17, California Code of Regulations (CCR), section 93000);

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants for which the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires ATCMs to be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment to public health;

WHEREAS, monitoring studies in California and Virginia have demonstrated that elevated levels of airborne asbestos are found near grading, construction, quarrying and surface mining operations where naturally-occurring asbestos is known to be present;

WHEREAS, in accordance with Health and Safety Code section 39666(c), the requirements of the ATCM have been designed, in consideration of the factors specified in Health and Safety Code section 39665(b), to reduce emissions of asbestos to the lowest levels achievable through application of BACT;

WHEREAS, based on comments received during the 45-day comment period prior to the public hearing, staff has proposed modifications to the original proposal; these modifications are set forth in Attachment B to this resolution;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the proposed ATCM was made available to the public for review and comment, and concepts and drafts of the ATCM were discussed at public consultation meetings on November 16, 1999, February 4, 2000, November 28, 2000, March 12, 2001, and May 15, 2001;

WHEREAS, in consideration of the staff report, written comments, and public testimony it has received, the Board finds that:

Existing federal, State, and local regulations do not sufficiently protect the public health from sources of naturally-occurring asbestos;

Construction, grading, quarrying, and surface mining operations where naturally-occurring asbestos is present may result in potentially harmful concentrations of asbestos fibers being entrained in the air, and these asbestos fiber concentrations may pose a significant health risk to exposed members of the public;

The proposed ATCM would substantially reduce asbestos emissions from the disturbance of naturally-occurring asbestos-containing material during construction, grading, quarrying, and surface mining operations;

The proposed ATCM complies with the requirements of the State law for control of sources of toxic air contaminants identified by the Board;

The provisions of the proposed ATCM constitute the best available control technology, as required by Health and Safety Code section 39666(c) and, also constitute a pollution prevention measure;

The ARB has considered the combined cumulative environmental impacts of the proposed ATCM and the July 2000 Asbestos ATCM for Surfacing Applications, and has determined that the cumulative adverse impacts that will result from the two ATCMs are statewide emission increases per year of approximately 591 to 691 pounds of diesel particulate matter, 3,900 to 4,100 pounds of carbon monoxide, 11,800 to 13,800 pounds of nitrogen oxides, and 6,300 to 6,500 pounds of hydrocarbons;

Except for the cumulative emissions impacts described above, there are no significant cumulative adverse environmental impacts that will occur from the two ATCMs identified above;

The emission increases described above are extremely small, but could nevertheless constitute an adverse environmental impact;

The proposed ATCM is necessary in order to protect public health by reducing asbestos emissions from the disturbance of naturally-occurring asbestos during construction, grading, quarrying, and surface mining operations;

The considerations identified above override any adverse environmental impacts that may occur from an increase in heavy-duty vehicle emissions; and

There are no feasible mitigation measures or alternatives that would reduce the potential adverse environmental impacts, while at the same time ensuring that the positive environmental impacts (i.e., a reduction in asbestos emissions) would be achieved.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed section 93105, title 17, CCR, as set forth in Attachments A and B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the ATCM set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, 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 regulation to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer, in consultation with the Department of Conservation, to assist the air pollution control districts and air quality management districts to:

Resolution 01-28

July 27, 2001

Identification of Attachments to the Board Resolution

Attachment A: Proposed Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations (section 93105, title17, California Code of Regulations), as set forth in Appendix A to the Initial Statement of Reasons, released June 8, 2001.

Attachment B: Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on July 27, 2001).

TAB 7

Tentative Agendas

"Short" Tentative Agenda (updated once a month)

- A schedule of Board items and Board meeting dates/locations for the current calendar year. *(see example 1)*

"Long" Tentative Agenda (updated once a month)

- Includes deadlines (due dates) for various documents involved in Board meetings and is sent to staff assigned to specific Board items. (see example 2)

- Clerk of the Board (Clerk) updates (short/long) tentative agendas at the beginning of each month before the Logistics meeting.

- It is then forwarded via email to the Chairman's office, executive staff and division chiefs and their assistants for their information.

EXAMPLE 1

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

Updated 1/02/08

January 24, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update: Impact of Mobile Source Emissions on Cause of Death in the U.S. Trucking Industry	Non-Regulatory	N/A	RD (10 min.)
Research Proposals	Non-Regulatory (Trini)	Debbie	RD (10 min.)
ARB's Action Plan for 2008	Non-Regulatory	N/A	EO (30 min.)
Continued Discussion of ZEV Credits Disclosure...	Non-Regulatory	Diane J.	MSCD
Innovative Clean Air Technologies (ICAT) Grants	Non-Regulatory (Trini)	Floyd	RD (30 min.)
Environmental Justice Advisory Committee Appointment Consideration	Non-Regulatory	N/A	OCC (30 min.)
Goods Movement Emission Reduction Program Guidelines (Prop. 1B)	Non-Regulatory (Trini)	Floyd	PTSD (4 hrs.)
Amendments to Verification Procedures, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines	Regulatory (Trini)	Kirk	MSCD (2 hrs.)

February 28, 2008 ~~ 9:00 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Research Proposals	Non-Regulatory (Trini)	Debbie	RD (10 min.)
Celebrate the 100th Meeting of the Scientific Review Panel	Non-Regulatory	N/A	RD
Formal Report of the Economic and Technology Advancement Advisory Committee	Non-Regulatory	N/A	RD (30 min.)
AB 32 Implementation Update & Consideration of a Board Policy Statement on Voluntary Early Action Reductions	Non- Regulatory (Amy)	Bob	OCC (30 min.)
The Success of Air Pollution Controls in CA: A 40th Anniversary Retrospective	Non-Regulatory	N/A	RD

2

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

March 27, 2008 ~~ 9:00 a.m. March 28, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update: Wildfire Smoke and Respiratory Symptoms in Children	Non-Regulatory	N/A	RD (10 min.)
Lower Emission School Bus Program Guidelines and Funding Allocation	Non-Regulatory (Amy)	Leslie	MSCD (2 hrs.)
ZEV Regulation	Regulatory (Amy)	Diane J.	MSCD (5 hrs.)
Strategic Plan for Enforcement of Diesel Emission Control Regulations *(required by AB 233, Jones, Ch. 592, Statutes of 2007)*	Non-Regulatory		ED
Update on the 2005 ARB/RR Statewide Agreement	Non-Regulatory (Trini)	Mike	SSD (15 min.)
Carl Moyer Program Guidelines Amendments	Non-Regulatory (Amy)	Leslie	MSCD (2–3 hrs.)

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

April 24, 2008 ~~ 9:00 a.m. April 25, 2008 ~~ 8:30 a.m. Bay Area			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Particulate Matter Mortality Update	Non-Regulatory (Trini)	Kirk	RD (1.5 hrs.)
Harbor Communities Monitoring Study	Non-Regulatory (Trini)	Floyd	RD
Port of Oakland HRA	Non-Regulatory (Trini)	Kirk	SSD (1-2 Hrs.)
Bay Area District Presentation Climate Change Program	Non-Regulatory (Trini)	tbd	PTSD
Proposed Requirements for the use of Cleaner Fuels in Ocean-Going Vessel Main Engines	Regulatory (Amy)	Floyd	SSD (2-3 hrs.)
SB 1505 Environmental & Energy Standards for Hydrogen Production	Regulatory (Trini)	Diane K.	MSCD
Landfill Measure (AB 32 Early Action Measure)	Regulatory (Trini)	Leslie	SSD (2-3 hrs.)
Update on Implementation of the Emission Reduction Plan for Ports and Goods Movement	Non-Regulatory (Trini)	Floyd	PTSD (30 min.)

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

May 22, 2008 ~~ 9:00 a.m. May 23, 2008 ~~ 8:30 a.m. Fresno			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
FY 2008-2009 Annual Research Plan	Non-Regulatory (Trini)	Debbie	RD
Climate Change Research Plan	Non-Regulatory (Trini)	Floyd	RD
San Joaquin Valley PM2.5 SIP *(Item has to be in Fresno)*	Non-Regulatory (Trini)	George	PTSD
Small Off-Road Engines and Large Spark-Ignition Engine Amendments	Regulatory (Amy)	George	MSCD (big Item)
Ventura County Ozone SIP	Non-Regulatory	Bob	PTSD
AB 32 Implementation Update	Non-Regulatory (Amy)	Bob	OCC
San Joaquin Valley Ozone Attainment Progress	Non-Regulatory (Trini)	George	PTSD
FY 2007/08 grants to Reduce Emissions from Goods Movement (Prop 1B)	Non-Regulatory (Trini)	Floyd	PTSD

June 26, 2008 ~~ 9:00 a.m. June 27, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Antelope Valley and Mojave Desert Ozone SIP's	Non-Regulatory	Bob	PTSD
Status of Forestry Protocols	Non-Regulatory	Bob	PTSD
Climate Change Science Update	Non-Regulatory (Trini)	Aron	RD
Amendments to the Consumer Products Regulation	Regulatory (Trini)	Bob	SSD
Draft Scoping Plan	Non-Regulatory	Bob	OCC

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

July 24, 2008 ~~ 9:00 a.m. July 25, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
Regional Haze SIP	Non-Regulatory	Bob	PTSD
Sterndrive/ Inboard Recreational Boat Amendments	Regulatory (Trini)	Aron	MSCD
Truck Emission Toxicity Study	Non-Regulatory (Trini)	tbd	RD
AB 32 Implementation Update	Non-Regulatory	Bob	OCC

August 2008 NO MEETING SCHEDULED

September 25, 2008 ~~ 9:00 a.m. September 26, 2008 ~~ 8:30 a.m. Los Angeles Area			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Sacramento 2007 Ozone SIP	Non-Regulatory (Trini)	Bob	PTSD
AB 32 Implementation Update	Non-Regulatory (Amy)	Bob	OCC
Local Government for GHG Reduction Guidelines/Protocols (AB 32 Early Action)	Non-Regulatory	Bob	RD

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

October 23, 2008 ~~ 9:00 a.m. October 24, 2008 ~~ 8:30 a.m. Fresno			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
On-Road Private Fleets *(Item has to be in the Valley/Fresno)*	Regulatory (Trini)	Mike	MSCD (Large)
Update on the 2005 ARB/RR Statewide Agreement	Non-Regulatory (Trini)	Mike	SSD
Manure Management—Dairy Digester Protocol (AB 32 Early Action Measure)	Non-Regulatory (Trini)	George	PTSD
Goods Movement Emission Reduction Program Guidelines (Update to Prop 1B)	Non-Regulatory	Floyd	PTSD
Greenhouse Gas Emission Reduction Verification Regulation	Regulatory (Amy)	Bob	PTSD

November 20, 2008 ~~ 9:00 a.m. November 21, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Divisio n**
Health Update	Non-Regulatory	N/A	RD
Cool Paints	Regulatory (Trini)	Aron	MSCD
2008 Area Designations and Designation Criteria Amendments	Regulatory (Trini)	Diane K.	PTSD
AB 32 Scoping Plan	Non-Regulatory (Amy)	Bob	OCC (large item)

7

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

December 11, 2008 ~~ 9:00 a.m. December 12, 2008 ~~ 8:30 a.m. Sacramento			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Health Update	Non-Regulatory	N/A	RD
Climate Change Science Update	Non-Regulatory (Trini)	Aron	RD
Reduction of HFC-134a from DIY MVAC Servicing	Regulatory (Trini)	Alex	RD
FY 2008-09 Innovative Clean Air Technologies (ICAT) Grants	Non-Regulatory (Trini)	Floyd	RD
Carbon Accounting Protocols for the Forestry Sector	Non-Regulatory	Bob	PTSD
Low Carbon Fuel Standard	Regulatory (Amy)	tbd	SSD
Scoping Plan	Non-Regulatory (Amy)	Bob	OCC
In-Use Off-Road Diesel Vehicle Reg. (one year status update to the Board)	Non-Regulatory	Mike	MSCD

2008 "Short" Tentative Agenda Schedule

(Items in "bold" print indicate changes/additions to the tentative agenda since the last update)

FOR INTERNAL USE ONLY

Future Agenda Items			
Agenda Item Title:	**Reg. or Non-Reg.**	**Lawyer**	**Division**
Regulations Enhanced Supplemental Federal Test Procedures: Amendments to Motor Vehicle Exhaust Test Procedures and Regulations	Regulatory (Amy)	tbd	MSCD
Portable Outboard Marine Tanks (2008)	Regulatory (Amy)	Aron	MLD
CA SIP Revision: Sacramento Federal Non-Attainment Area SIP (2008)	Non-Regulatory (Trini)	Bob	PTSD
Zero Evaporative Requirements: Amendments to Motor Vehicle Evaporative Emission Test Procedures	Regulatory (Amy)	Alex	MSCD
Agricultural Operations	Regulatory	Leslie	MSCD
AB 965 Vehicle Exemption Process	Regulatory	Vicky	MSCD
Gasoline Dispenser Hose (November?)	Regulatory	Diane J.	MLD
Proposed Specifications for Bio Diesel, Compressed Natural Gas, and E-85	(Trini)	tbd	SSD

2008

"Long" Tentative Agenda

FOR INTERNAL USE ONLY

****PLEASE NOTE: CHANGES MAY HAVE BEEN MADE TO SOME DUE DATES IN ORDER TO ALLOW FOR APPROPRIATE REVIEW AND APPROVAL BY THE EXECUTIVE OFFICE.****

NOTE: Board approval process is located behind the Tentative Agenda Schedule and was updated on 11/07/07

Please make sure that all staff working on board items receive this document

Items in bold indicate changes or additions to tentative agenda since last update.

Working Version (1/02/08)

2008 Tentative Agenda

January 24, 2008 ~~ 9:00 a.m.
Sacramento

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update: Impact of Mobile Source Emissions on Cause of Death in the U.S. Trucking Industry	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
ARB's Action Plan for 2008	Non-Regulatory	N/A	EO
Continued Discussion of ZEV Credits Disclosure...	Non-Regulatory	Diane J.	MSCD
Innovative Clean Air Technologies (ICAT) Grants	Non-Regulatory (Trini)	Floyd	RD (30 min.)
Environmental Justice Advisory Committee Appointment Consideration	Non-Regulatory (Amy)	N/A	OCC
Goods Movement Emission Reduction Program Guidelines (Prop. 1B)	Non-Regulatory (Trini)	Floyd	PTSD (4 hrs.)
Amendments to Verification Procedures, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines	Regulatory (Trini)	Kirk	MSCD (2 hrs.)

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Regs. Coord.	11/20/07	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	11/21/07	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	11/27/07	Regulations Coordinator files Notice Package with OAL for Publication on **12/7/07**
	Repro	11/30/07	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 12/7/07** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 12/7/07**
	PIO / WEB	**12/07/07**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

Due to Div. Office	Due to	By	The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items
	Clerk	1/2/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	1/2/08	Approved Proposed Resolution*
	Clerk	1/4/08	Board Item Summary & Personal Agenda Statements
---	---	1/11/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	1/14/08	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	1/22/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	2/11/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

February 28, 2008 ~~ 9:00 a.m.
Sacramento

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Celebrate the 100th Meeting of the Scientific Review Panel	Non-Regulatory	N/A	RD
Formal Report of the Economic and Technology Advancement Advisory Committee	Non-Regulatory (Amy)		RD (30 min.)
AB 32 Implementation Update	Non-Regulatory (Amy)	Bob	OCC
Consideration of a Board Policy Statement on Voluntary Early Action Reductions	Non-Regulatory (Amy)	Bob	OCC
The Success of Air Pollution Controls in CA: A 40th Anniversary Retrospective	Non-Regulatory	N/A	RD

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Regs. Coord.	12/18/07	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	12/28/07	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	12/31/07	Regulations Coordinator files Notice Package with OAL for Publication on **1/11/08**
	Repro	1/4/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 1/11/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 1/11/08**
	PIO / **WEB**	**1/11/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	2/4/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	2/4/08	Approved Proposed Resolution*

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

	Clerk	2/8/08	Board Item Summary & Personal Agenda Statement
---	---	2/15/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	2/19/08	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	2/26/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	3/17/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

March 27, 2008 ~~ 9:00 a.m.
March 28, 2008 ~~ 8:30 a.m.
Sacramento

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update: Wildfire Smoke and Respiratory Symptoms in Children	Non-Regulatory	N/A	RD
Lower Emission School Bus Program Guidelines and Funding Allocation	Non-Regulatory (Amy)	Leslie	MSCD (2 hrs.)
ZEV Regulation	Regulatory (Amy)	Diane J.	MSCD (5 hrs.)
Strategic Plan for Enforcement of Diesel Emission Control Regulations *(required by AB 233, Jones, Ch. 592, Statutes of 2007)*	Non-Regultory	tbd	ED
Update on the 2005 ARB/RR Statewide Agreement	Non-Regulatory (Trini)	Mike	SSD (15 min.)
Carl Moyer Program Guideline Amendments	Non-Regulatory (Amy)	Leslie	MSCD (2-3 hrs.)

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Regs. Coord.	1/21/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	1/25/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	1/29/08	Regulations Coordinator files Notice Package with OAL for Publication on **2/8/08**
	Repro	2/1/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 2/8/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 2/8/08**
	PIO / **WEB**	**2/8/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	3/3/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due dat

*** See attached "Approval Process for Board Meeting Material" for more information**

	Regs. Coord.	3/3/08	Approved Proposed Resolution*
	Clerk	3/7/08	Board Item Summary & Personal Agenda Statement
---	---	3/14/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	3/25/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	4/14/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

April 24, 2008 ~~ 9:00 a.m.
April 25, 2008 ~~ 8:30 a.m.
San Francisco

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Particulate Matter Mortality Update	Non-Regulatory (Trini)	Kirk	RD (1.5 hrs.)
Harbor Communities Monitoring Study	Non-Regulatory (Trini)	Floyd	RD
Port of Oakland HRA	Non-Regulatory (Trini)	Kirk	SSD (1-2 hrs.)
Bay Area Distribution Presentation Climate Change Program	Non-Regulatory (Trini)	tbd	PTSD
Proposed Requirements for the use of Cleaner Fuels in Ocean-Going Vessel Main Engines	Regulatory (Amy)	Floyd	SSD (2-3 hrs.)
SB 1505 Environmental & Energy Standards for Hydrogen Production	Regulatory (Trini)	Diane K.	MSCD
Landfill Measure *(AB 32 Early Action Measure)*	Regulatory (Trini)	Leslie	SSD
Update on Implementation of the Emission Reduction Plan for Ports and Goods Movement	Non-Regulatory (Trini)	Floyd	PTSD

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	2/15/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	2/22/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	2/26/08	Regulations Coordinator files Notice Package with OAL for Publication on **3/7/08**
	Repro	2/29/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 3/7/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 3/7/08**

*** See attached "Approval Process for Board Meeting Material" for more information**

	PIO / **WEB**	**3/7/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*

Due to Div. Office	Due to	By	The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items
	Clerk	4/1/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	4/1/08	Approved Proposed Resolution*
	Clerk	4/4/08	Board Item Summary & Personal Agenda Statement
---	---	4/11/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	4/22/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	5/12/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

May 22, 2008 ~~ 9:00 a.m.
May 23, 2008 ~~ 8:30 a.m.
Fresno

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
FY 2008-2009 Annual Research Plan	Non-Regulatory (Trini)	Debbie	RD
Climate Change Research Plan	Non-Regulatory (Trini)	Floyd	RD
San Joaquin Valley PM2.5 SIP *(Item has to be heard in the Fresno)*	Non-Regulatory (Trini)	George	PTSD
Small Off-Road Engines and Large Spark-Ignition Engine Amendments	Regulatory (Amy)	George	MSCD
Ventura County Ozone SIP	Non-Regulatory	Bob	PTSD
AB 32 Implementation Update	Non-Regulatory (Amy)	Bob	OCC
FY 2007/08 grants to Reduce Emissions from Goods Movement (Prop 1B)	Non-Regulatory (Trini)	Floyd	PTSD

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	3/17/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	3/21/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	3/25/08	Regulations Coordinator files Notice Package with OAL for Publication on **4/4/08**
	Repro	3/28/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 4/4/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 4/4/08**
	PIO / **WEB**	**4/4/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

Due to Div. Office	Due to	By	The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items
	Clerk	4/28/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	4/28/08	Approved Proposed Resolution*
	Clerk	5/2/08	Board Item Summary & Personal Agenda Statement
---	---	5/9/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	5/20/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	6/9/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

June 26, 2008 ~~ 9:00 a.m.
June 27, 2008 ~~ 8:30 a.m.
Sacramento

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Antelope Valley and Mojave Desert Ozone SIPs	Non-Regulatory	Bob	PTSD
Status of Forestry Protocols	Non-Regulatory	Bob	PTSD
Climate Change Science Update	Non-Regulatory (Trini)	Aron	RD
Amendments to the Consumer Products Regulation	Regulatory (Trini)	Bob	SSD
Draft Scoping Plan	Non-Regulatory	Bob	OCC

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy E
	Regs. Coord.	4/21/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	4/25/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL
	OAL	4/29/08	Regulations Coordinator files Notice Package with OAL for Publication on 5/9/08
	Repro	5/2/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 5/9/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 5/9/08**
	PIO / **WEB**	**5/9/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

Due to Div. Office	Due to	By	The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items
	Clerk	6/2/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	6/2/08	Approved Proposed Resolution*
	Clerk	6/6/08	Board Item Summary & Personal Agenda Statement
---	---	6/13/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	6/24/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	7/14/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

July 24, 2008~~ 9:00 a.m.
July 25, 2008~~ 8:30 a.m.
Sacramento

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Regional Haze SIP	Non-Regulatory (Trini)	George	PTSD
Sterndrive/ Inboard Recreational Boat Amendments	Regulatory (Trini)	Aron	MSCD
Truck Emission Toxicity Study	Non-Regulatory (Trini)	tbd	RD
AB 32 Implementation Update	Non-Regulatory	Bob	OCC

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc.		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	5/19/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	5/23/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL
	OAL	5/27/08	Regulations Coordinator files Notice Package with OAL for Publication on 6/6/08
	Repro	5/30/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 6/6/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 6/6/08**
	PIO / **WEB**	**6/6/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	7/1/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	7/1/08	Approved Proposed Resolution*
	Clerk	7/3/08	Board Item Summary & Personal Agenda Statement

*** See attached "Approval Process for Board Meeting Material" for more information**

---	---	7/11/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	7/22/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	8/11/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

August 2007 ~~ No Meeting

* See attached "Approval Process for Board Meeting Material" for more information

2008 Tentative Agenda

September 25, 2008 ~~ 9:00 a.m.
September 26, 2008 ~~ 8:30 a.m.
Los Angeles Area

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Research Proposals	Non-Regulatory (Trini)	Debbie	RD
Sacramento 2007 Ozone SIP	Non-Regulatory (Trini)	Bob	PTSD
Local Government for GHG Reduction Guidance/Protocols *(AB 32 Early Action*	Non-Regulatory (Trini)	Bob	RD
AB 32 Implementation Update	Non-Regulatory (Amy)	Bob	OCC

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	7/21/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Cousel	7/25/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	7/29/08	Regulations Coordinator files Notice Package with OAL for Publication on 8/8/08
	Repro	8/1/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 8/8/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 8/8/08**
	PIO / **WEB**	**8/8/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg. 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	9/2/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	9/2/08	Approved Proposed Resolution*

*** See attached "Approval Process for Board Meeting Material" for more information**

	Clerk	9/5/08	Board Item Summary & Personal Agenda Statement
---	---	9/12/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	9/23/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	10/13/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

October 23, 2008 ~~ 9:00 a.m.
October 24, 2008 ~~ 8:30 a.m.
Fresno

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
On-Road Private Fleets *(Item has to be heard in the Valley/Fresno)*	Regulatory (Trini)	Mike	MSCD (Large)
Update on the 2005 ARB/RR Statewide Agreement	Non-Regulatory (Trini)	Mike	SSD
Manure Management—Dairy Digester Protocol (AB 32 Early Action Measures)	Non-Regulatory (Trini)	George	PTSD
Goods Movement Emission Reduction Program Guidelines (update to Prop 1B)	Non-Regulatory	Floyd	PTSD
Greenhouse Gas Emission Reduction Verification	Regulatory (Amy)	Bob	PTSD

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	8/18/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	8/22/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	8/26/08	Regulations Coordinator files Notice Package with OAL for Publication on 9/15/08
	Repro	8/29/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 9/5/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 9/5/08**
	PIO / **WEB**	**9/5/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	9/29/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*

*** See attached "Approval Process for Board Meeting Material" for more information**

	Regs. Coord.	9/29/08	Approved Proposed Resolution*
	Clerk	10/3/08	Board Item Summary & Personal Agenda Statement
---	---	10/10/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	10/21/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	11/10/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

November 20, 2008 ~~ 9:00 a.m.
November 21, 2008 ~~ 8:30 a.m.
TBD

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Cool Paints	Regulatory (Trini)	Aron	MSCD
2008 Area Designations and Designation Criteria Amendments	Regulatory (Trini)	Diane K.	PTSD
AB 32 Scoping Plan	Non-Regulatory (Amy)	Bob	OCC

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	9/15/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	9/19/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL
	OAL	9/23/08	Regulations Coordinator files Notice Package with OAL for Publication on 10/3/08
	Repro	9/26/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 10/3/08** **Legal Sends Notice for Reproduction and Mailing to PIO-5 by 10/3/08**
	PIO / **WEB**	**10/3/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice** **Legal Will Post to Web and Events Calendar, and Will Broadcast to the List Serve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	10/27/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved Documents are Due to the Clerk by the specified due date)*
	Regs. Coord.	10/27/08	Approved Proposed Resolution*
	Clerk	10/30/08	Board Item Summary & Personal Agenda Statement

*** See attached "Approval Process for Board Meeting Material" for more information**

---	---	11/7/08	Board Book and Public Agenda Due Out (Clerk does thi
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	11/18/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	12/8/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

2008 Tentative Agenda

December 11, 2008 ~~ 9:00 a.m.
December 12, 2008 ~~ 8:30 a.m.
TBD

Agenda Item Title:	Reg. or Non-Reg.	Lawyer	Division
Health Update	Non-Regulatory	N/A	RD
Climate Change Science Update	Non-Regulatory (Trini)	Aron	RD
Reduction of HFC-134a from DIY MVAC Servicing	Regulatory (Trini)	Alex	RD
FY 2008-09 Innovative Clean Air Technologies (ICAT) Grants	Non-Regulatory (Trini)	Floyd	RD
Carbon Accounting Protocols for the Forestry Sector	Non-Regulatory	Bob	PTSD
Low Carbon Fuel Standard	Regulatory (Amy)	tbd	SSD
Scoping Plan	Non-Regulatory	Bob	OCC
In-Use Off-Road Diesel Vehicle Reg. *(one-year status update to the Board)*	Non-Regulatory	Mike	MSCD

Due to Div. Office	Due to	By	The Following Due Dates Pertain to *Regulatory* Items Only (except as noted)
	Exec Ofc.		OAL Notice Package for Preliminary Review by Deputy EO
	Regs. Coord.	10/6/08	Final Notice Package (Notice, Staff Report (ISOR) with References, Form 399 & Cal/EPA Summary) for Review, Approval & Signature by EO*
	Chief Counsel	10/10/08	Notice package for review by Chief Counsel. Regulations Coordinator sends package to OAL.
	OAL	10/14/08	Regulations Coordinator files Notice Package with OAL for Publication on 10/24/08.
	Repro	10/17/08	**Division Sends ISOR & Notice for Reproduction and Mailing to Their Appropriate Lists by 10/24/08 Legal Sends Notice for Reproduction and Mailing to PIO-5 by 10/24/08.**
	PIO / **WEB**	**10/24/08**	**Division Supplies Environmental Services Center, 1st Floor, with 30 Copies Minimum of ISOR & Notice Legal Will Post to Web and Events Calendar, and Will Broadcast to the Listserve** *(Non-Reg 30 Days Prior to Board Meeting)*
Due to Div. Office	**Due to**	**By**	**The Following Due Dates Pertain to Both *Regulatory* and *Non-Regulatory* Items**
	Clerk	11/17/08	Board Book Material: Staff Reports & Meeting Notices (Regulatory **or** Non-Regulatory) (These Approved

*** See attached "Approval Process for Board Meeting Material" for more information**

			Documents are Due to the Clerk by the specified due dat
	Regs. Coord.	11/17/08	Approved Proposed Resolution*
	Clerk	11/21/08	Board Item Summary & Personal Agenda Statement
---	---	11/26/08	Board Book and Public Agenda Due Out (Clerk does this)
---	---	TBD	Chairman's Briefing (Scheduled by Chair's Assistant)
	Clerk	12/8/08	Presentation Material **(30 Copies for Board Members)**
	Clerk	12/29/08	"Post" Board Item Summary

*** See attached "Approval Process for Board Meeting Material" for more information**

Future Agenda Items			
Regulations Enhanced Supplemental Federal Test Procedures: Amendments to Motor Vehicle Exhaust Test Procedures and Regulations	Regulatory (Amy)	tbd	MSCD
Portable Outboard Marine Tanks (2008)	Regulatory (Amy)	Aron	MLD
CA SIP Revision: Sacramento Federal Non-Attainment Area SIP (2008)	Non-Regulatory (Trini)	Bob	PTSD
Zero Evaporative Requirements: Amendments to Motor Vehicle Evaporative Emission Test Procedures	Regulatory	Alex	MSCD
Agricultural Operations	Regulatory	Leslie	MSCD
AB 965 Vehicle Exemption Process	Regulatory	Vicky	MSCD
Gasoline Dispenser Hose (November?)	Regulatory	Diane J.	MLD
Proposed Specifications for Bio Diesel, Compressed Natural Gas, and E-85		tbd	SSD

See attached "Approval Process for Board Meeting Material" for more information

BEFORE
BOARD MEETING

FORM 399 (Regulatory)

From:
Approved by:

1. Division Chief
2. Assigned Regulations Coordinator
   (via email, no diskette, to initiate a EO tracking/routing process)
3. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
4. Assigned Attorney
5. Chief Counsel
6. Appropriate Deputy Executive Officer
7. Executive Officer

When approved give to: Assigned Regulations Coordinator (who will close the EO tracking assignment & will process to Cal/EPA/DOF)

HEARING NOTICE (Regulatory)

From:
Approved by:

1. Division Chief
2. Assigned Regulations Coordinator
   (via email, no diskette, to initiate a EO tracking/routing process)
3. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
4. Assigned Attorney
5. Chief Counsel
6. Appropriate Deputy Executive Officer
7. Executive Officer

When approved give to: Assigned Regulations Coordinator (who will close the EO tracking assignment & will send to Repro for mailing)

PUBLIC MEETING NOTICE (Optional for Non-Regulatory)

From:
Approved by:

1. Division Chief
2. Assigned Regulations Coordinator
   (via email, no diskette, to initiate a EO tracking/routing process)
3. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
4. Assigned Attorney
5. Chief Counsel
6. Appropriate Deputy Executive Officer
7. Executive Officer

When approved give to: Assigned Regulations Coordinator (who will close the EO tracking assignment & return the approved notice to the Division for repro and mailing)

PROPOSED RESOLUTION

From:
Approved by:

1. Division Chief
2. Assigned Regulations Coordinator
   (via email, no diskette, to initiate a EO tracking/routing process)
3. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
4. Assigned Attorney
5. Chief Counsel
6. Appropriate Deputy Executive Officer
7. Executive Officer

When approved give to: Assigned Regulations Coordinator (who will close the EO tracking assignment & process/copy the Resolution for the Board meeting.

PUBLIC AGENDA

From:
Approved by:

1. Lori Andreoni, Clerk of the Board
   (via email, no diskette, to initiate an EO tracking/routing process)
2. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
3. Chief Counsel
4. Mike Scheible, Deputy Executive Officer
5. Lynn Terry, Deputy Executive Officer
6. Tom Cackette, Chief Deputy Executive Officer
7. Executive Officer

When approved give to: Lori Andreoni, Clerk of the Board (who will close the EO tracking assignment)

PRE-BOARD ITEM SUMMARY (Required for ALL item going to the Board)

From:

1. Division Chief
2. Lori Andreoni, Clerk of the Board
   (via email, no diskette, to initiate a EO tracking/routing process)

Approved by:

3. Assigned Attorney
4. Chief Counsel
5. Appropriate Deputy Executive Officer
6. Executive Officer

When approved give to: Lori Andreoni, Clerk of the Board (who will close the EO tracking assignment)

APPROVAL ROUTING PROCESS FOR BOARD MEETING MATERIAL ~~ UPDATED 11/22/05

PERSONAL AGENDA STATEMENT (required for ALL item going to the Board)

F[illegible]:
1. Division Chief
2. Lori Andreoni, Clerk of the Board
   (via email, no diskette, to initiate an EO tracking/routing process)

Approved by:
3. Assigned Attorney
4. Chief Counsel
5. Appropriate Deputy Executive Officer
6. Executive Officer

When approved give to: Lori Andreoni, Clerk of the Board (who will close the EO tracking assignment)

NOTE: *Occasionally the Chairman will request that a special statement be prepared for him to give at the Board meeting on a topic other than an agenda item. If this request is received, contact Lori Andreoni (322-5594) in order to determine the approval process and the deadline for her receipt of the statement, in order for it to be included in the Chairman's package.*

STAFF POWER POINT PRESENTATION

From (approved by:
1. Division Chief
2. Division Coordinator/staff (30 hard copies in black & white w/two slides per page, copied back to back and 2 color copies same format and an electronic copy (via CD, flash drive for posting, etc.)

When approved give to: Lori Andreoni, Clerk of the Board (she will distribute to the EO Staff and Board members to have at the Board meeting)

AFTER
BOARD MEETING

FINAL RESOLUTION (To be signed by Clerk of the Board)

The Clerk of the Board has the latest electronic version of the proposed resolution. All division edits/changes must be made in coordination with the Clerk for finalization prior to certification.

From: 1. Clerk of the Board (initiates an EO tracking/routing process)

Approved By: 2. Assigned Attorney
3. Chief Counsel

After Approval of Resolution

It's signed by: 4. Lori Andreoni, Clerk of the Board (signs "Final" Resolution)

When signed: BARCU Assistant will makes copies and distributes to appropriate staff, post on Regulation page if it's a Regulatory item & original to the Clerk for file (and will close the tracking assignment)

POST-BOARD SUMMARY (Summarizes items heard at the previous Board meeting)

Staff prepares a summary of their Board item. After Division Chief Approval, "post" Board summaries are sent to the Clerk of the Board (Lori Andreoni) via email within two weeks following the Board meeting). The "post" Board summaries are compiled/formatted into one document. The routing/approval process is as follows:

From: 1. Lori Andreoni, Clerk of the Board
(Reviews, edits, compiles and initiates a EO tracking/routing process)

Approved by: 2. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
3. Chief Counsel
4. Appropriate Deputy Executive Officers
5. Executive Officer

When approved give to: Lori Andreoni, Clerk of the Board (who will close the EO tracking assignment & post on ARB's outside page)

15 – DAY NOTICE AND MODIFIED TEXT (If applicable)

From: 1. Division Chief

Approved by: 2. Assigned Regulations Coordinator
(via email, no diskette, to initiate a EO tracking/routing process)
3. Manager, Board Administration and Regulatory Coordination Unit (BARCU)
4. Assigned Attorney
5. Chief Counsel (approves and returns to Regs. Coord., unless further review by Deputy/EO is determined)
6. Appropriate Deputy (if applicable)
7. Executive Officer (if applicable)

When approved give to: Assigned Regulations Coordinator (who will close the EO tracking assignment & return the approved 15-Day Notice to the Division for repro and mailing)

NOTE: All Board material will be in a **"Teal"** folder, with an EO tracking sheet and a pink approval route slip attached to the front of the folder. This material should always be handled as an **EXPEDITE!**

Logistics Meetings

- The Clerk schedules the Logistics meetings and compiles/prepares meeting material (based on items listed on the "short" tentative agenda.)

- Clerk sends (via email) a "Logistics Questionnaire form" to division chiefs and their assistants to be completed by appropriate staff for their Board items. *(see example 3)*

- Clerk prepares a "Logistics Tentative Agenda" based on the information received from staff on the completed logistics questionnaire form. *(see example 4)*

- The Logistics meeting includes the Executive Officer, general counsel, deputies, affected division chiefs and or delegate, appropriate legal staff, legislative office, ombudsman office, public information office, regulations coordinators, and the Clerk of the Board.

- Discussion on length of Board meeting (1 or 2 days), order of items on agenda, Board member briefings, any controversy, media coverage, and any other pertinent information on Board items. Brief discussion looking ahead at the next couple of month's agenda items.

- After the meeting, the Clerk finalizes the logistics tentative agenda with items in correct order and distributes to appropriate participants by via email.

Revised 1/2008

EXAMPLE 3

January 24, 2008 Board Meeting
Sacramento

Logistics Meeting Questionnaire Form is November 9 Due by 10:00 a.m.

Agenda Item Title: (*How you want it to appear on the "Public Agenda" and should be the same title as your Notice, if applicable*): _____

_____

Division: _____ Is there a hearing/meeting notice? _____

Give a short summary of the board item to be included on the public agenda: _____

_____

_____

_____

_____

_____

_____

_____

PLEASE NOTE: Your Board Item Summary & Personal Agenda Statements are due to the Clerk of the Board no later than **January 4.**

List what material will go into the board book? (e.g., staff report, notice and/or other material, etc.) _____

How many copies of the board book do you estimate will be needed for this board item? _____ Will there be a resolution? _____

Will your item require translation services, if so what language, please complete an ASD 256 & email it to the Clerk of the Board **by November 9**: _____

Name of staff reporting: _____ Phone # of staff reporting: _____

Estimated time for item at board meeting: _____

Estimated time for staff presentation: _____

Do you wish to brief board members? _____

If yes, which ones? (Choose 4) _____

Staff (*first & last name*) who will brief board members: _____

_____

Estimated time for "board member" briefing: _____

Support staff contact and phone # (for board member briefing scheduling): _____

Additional Comments: _____

_____

_____

~~ FOR INTERNAL USE ONLY ~~

LOGISTICS TENTATIVE AGENDA

JANUARY 24 @ 8:30 A.M.
Sacramento

			DUE DATE:	1/04/08	1/02/08	1/02/08	1/04/08				
			TO:	CLERK	CLERK	T. Balcazar	CLERK				
ORDER	AGENDA ITEM	DIVISION	NOTICE?	BOARD ITEM SUMMARY	BOARD BOOK MATERIAL	RESOLUTION	PERSONAL AGENDA STATEMENT	STAFF REPORTING	EST. TIME BD. MTG.	EST. TIME FOR STAFF PRESTN.	BRIEF BOARD MEMBERS
08-1-1	HEALTH UPDATE: Impact of Mobile Source Emissions on Cause of Death in the U.S. Trucking Industry	RD	NO	YES	NONE	NO	YES	CYNTHIA GARCIA 327-8221	10 MIN.	5 MIN.	CASE
08-1-2	RESEARCH PROPOSALS (5)	RD (Debbie)	NO	YES	NONE	08-1 THROUGH 08-5	YES	HEATHER CHOI 322-3893	15 MIN.	10 MIN.	CASE SPERLING
08-1-3	ARB'S ACTION PLAN FOR 2008	LEGAL OFC.	NO	YES	CALENDAR	NO	YES	JAMES GOLDSTENE 445-4383	20 MIN.	15 MIN.	NONE
08-1-4	INNOVATIVE CLEAN AIR TECHNOLOGIES (ICAT) GRANTS	RD (Debbie)	YES	YES	NOTICE	08-7 THROUGH 08-10	YES	JORN HERNER 324-9299	10 MIN.	5 MIN.	SPERLING
08-1-5	APPOINMENTS TO THE ENVIRONMENTAL JUSTICE ADVISORY COMMITTEE	OCC	NO	YES	NONE	08-11	YES	CHUCK SHULOCK 322-6964	10 MIN.	5 MIN.	BERG D'ADAMO HILL LOVERIDGE
08-1-6	CONSIDER APPROVAL OF EARLY PROGRESS PLANS FOR THE CALIFORNIA SIP	PTSD (Bob)	YES	YES	NOTICE STAFF REPORT	08-15	YES	DENNIS WADE 327-2963	15 MIN.	5 MIN.	NONE

EXAMPLE 4

Updated 12/17/07 lra

Continued…

Continued

			DUE DATE:	1/04/08	1/02/08	1/02/08	1/04/08				
			TO:	CLERK	CLERK	T. Balcazar	CLERK				
ORDER	AGENDA ITEM	DIVISION	NOTICE?	BOARD ITEM SUMMARY	BOARD BOOK MATERIAL	RESOLUTION	PERSONAL AGENDA STATEMENT	STAFF REPORTING	EST. TIME BD. MTG.	EST. TIME FOR STAFF PRESTN.	BRIEF BOARD MEMBERS
08-1-7	PROPOSITION 1B GOODS MOVEMENT EMISSION REDUCTION PROGRAM GUIDELINES	PTSD (Floyd)	YES	YES	NOTICE STAFF REPORT GUIDELINES	08-12	YES	DOUG ITO 324-0356	3 – 5 HRS.	20 MIN.	CASE HILL LOVERIDGE KENNARD
08-1-8	**AMENDMENTS TO THE VERIFICATION PROCEDURE, WARRANTY AND IN-USE COMPLIANCE REQUIREMENTS FOR IN-USE STRATEGIES TO CONTROL EMISSIONS FROM DIESEL ENGINES**	MSCD (Kirk)	YES	YES	NOTICE STAFF REPORT	08-13	YES	DANIELE ROBINSON 626-450-6109	2 HRS.	30 MIN.	BERG D'ADAMO RIORDAN SPERLING
07-12-10	**CONTINUED FROM DEC.:** OPTIONS REGARDING THE REQUESTED DISCLOSURE OF ZERO EMISSION VEHICLE (ZEV) CREDIT DATA BASED ON SUBMITTALS BY VEHICLE MANUFACTURERS WHO HAVE DESIGNATED THE DATA AS CONFIDENTIAL TRADE SECRET INFORMATION	MSCD (Diane J.)	NO	YES	NONE	NO	YES	TOM JENNINGS 323-9606	1 HR.	20 MIN.	NONE

PUBLIC AGENDA/BOARD BOOK DUE OUT ON FRIDAY, JANUARY 11

CHAIRMAN'S BRIEFING – January 14 @ 2:30 pm (CR 620 & via Video Conf. w/El Monte, CR 107 AN2)

BOLD INDICATES A REGULATORY BOARD ITEM.

FYI: Mayor Loveridge will not be attending the Board meeting; Ms. D'Adamo will arrive around 10:30 – 11 am.; Mrs. Riordan will need to leave by 6 pm.

Public Agenda/Board Book

- A Public Agenda is legally required to be available to the public 10-days prior to the Board meeting.

- If there are plans to conduct a "formal" demonstration in regard to a specific Board item for the Board members to attend outside of the Board room, you must announce the demonstration specifics in the "Public Agenda" at least 10-days prior to the Board meeting. This will give the public the option to attend the demonstration.

- Agenda items are listed in the order they will be heard and a brief description is given for each agenda item. *(see example 5)*

- The Public Agenda is prepared by the Clerk of the Board, and is routed for approval through the General Counsel, appropriate deputies, and the Executive Officer for review and approval.

- When approved, the Clerk prepares and processes for reproduction and distribution to a large (PIO5) mailing list and will posts on the ARB's website.

- The Clerk simultaneously compiles the Board book material and prepares for reproduction and distribution.

- The Board book consists of the Hearing/Meeting Notices, and Staff Reports for each item (Some Non-Regulatory items will not have written material for the Board book).

- The Board book is distribution to the public mailing list (and Board members and appropriate ARB staff). Copies are also sent to PIO (both Sacramento and El Monte) for the public to access. The Board book is available to the public on the ARB website as well as at the Board meeting (by hard copy and or CD.)

- <u>After</u> the Board meeting, an "official" Board book is compiled to include the witness list and all comment letters received during the 45-day comment period (if applicable) and comments received during the Board meeting, staff presentation, copies of the witness cards, and the Board vote (if applicable), and a copy of the request to speak cards for each Board item. This becomes the "official public records" Board book and is kept in our Board files (located in the Legal office).

Revised 1/2008

California Environmental Protection Agency

Air Resources Board

Public Meeting Agenda

LOCATION:
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This facility is accessible by public transit. For transit information, call (916) 321-BUSS, website: http://www.sacrt.com
(This facility is accessible to persons with disabilities.)

TO SUBMIT WRITTEN COMMENTS ON AN AGENDA ITEM IN ADVANCE OF THE MEETING GO TO:
http://www.arb.ca.gov/lispub/comm/bclist.php

January 24, 2008
8:30 a.m.

Item #

08-1-1: Health Update: Impact of Mobile Source Emissions on Cause of Death in the U.S. Trucking Industry

Staff will present an assessment of the causes of death in about 54,000 Teamsters Union members. The study examined mortality effects by diesel vehicle use and by job type. This analysis of the U.S. trucking industry found an increase in mortality due to lung cancer and heart disease among drivers, compared to other categories, such as clerks and shopworkers. These results are consistent with previous studies showing an association between exposure to vehicle exhaust and an increased risk of death from lung cancer and heart disease.

08-1-2: Public Hearing to Consider Five Research Proposals

1. *"Economic Value of Reducing Cardiovascular Disease Morbidity," RFP No. 07-301, San Diego State University Research Foundation, $392,036.*
2. *"Developing a California Inventory for Selected Applications of Perfluorocarbons, Sulfur Hexafluoride, Hydrofluorocarbons, Nitrogen Trifluoride, Hydrofluoroethers, and Ozone Depleting Substances," Institute for Research and Technical Assistance, $199,840.*
3. *"Development of a California-Specific Intermodal Freight Transport Model," University of Delaware, $199,937.*
4. *"Reducing Emissions of Volatile Organic Compounds from Agricultural Soil Fumigation. Comparing Emission Estimates from Simplified Methodology," United States Department of Agriculture, $150,000.*
5. *"Environmental Justice Saturation Monitoring of Selected Pollutants in Wilmington," Desert Research Institute, $41,226, Augmentation to Contract No. 05-304.*

08-1-3: Report to the Board on ARB's Action Plan for 2008

ARB Executive Officer James Goldstene will brief the Board on major initiatives, rulemakings, and other activities scheduled for 2008.

08-1-4: Public Meeting to Consider the Approval of New Grants under the Innovative Clean Air Technologies (ICAT) Program

In response to a public solicitation of applications, the ARB staff has received and reviewed proposals for the quality of their innovative technologies, their potentials for reducing air pollution and for commercial application in California, their potential economic benefits for California, the quality of the proposed demonstration projects, and their values to ARB's programs. The ARB staff is recommending grants for four of the proposed projects.

08-1-5: Appointments to Fill Vacancies of the Environmental Justice Advisory Committee (EJAC) under AB 32, the California Global Warming Solutions Act of 2006

The Global Warming Solutions Act of 2006 (AB32) called for the establishment of the Global Warming Environmental Justice Advisory Committee (EJAC). EJAC's role is to advise the Board in developing the scoping plan of emission reduction measures and any other pertinent matter during the implementation of AB32. Staff recommends the Board appoint the recommended committee member and alternate replacements to fill vacancies in EJAC.

08-1-6: Public Hearing to Consider Approval of Early Progress Plans for the California State Implementation Plan

ARB staff will present an Early Progress Plan for 5 areas: Ventura County, Coachella Valley, Eastern Kern County, the Antelope Valley portion of the Mojave Desert Air Basin and the San Bernardino county portion of the Mojave Desert Air Basin. This plan demonstrates progress toward attaining the federal 8-hour National Ambient Air Quality Standard and establishes transportation conformity budgets.

08-1-7: Public Hearing to Consider Adoption of Proposition 1B Goods Movement Emission Reduction Program Guidelines

The Board will consider adoption of the proposed Guidelines to implement this new $1 billion incentive program to reduce diesel emissions and health impacts from freight movement along California's four priority trade corridors. The Guidelines lay out the requirements for funding eligible projects proposed by local agencies and by equipment owners, consistent with implementing legislation. The accompanying Staff Report recommends that the Board establish funding targets for each corridor and each source sector, as well as approve up to $25 million in early grants for specific emission reduction projects proposed by local air districts.

08-1-8: Public Hearing to Consider Amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines

Staff will propose modifications to the Verification Procedure that would increase the Procedure's flexibility in evaluating the growing complexity and diversity of diesel emission control technologies. The proposed changes would also allow the Procedure to better support the State's in-use fleet regulations through more robust evaluations of control technologies and expedited verifications of viable control technologies. In addition, clarifying language is included to make the Procedure more straightforward for applicants. The amendments include, among other things, verification requirements for control technologies that only reduce NOx emissions, new reduction classifications for NOx reducing technologies, new testing requirements, and conditional extensions for verified technologies.

07-12-10: CONTINUED FROM THE DECEMBER 7, 2007 BOARD MEETING: Public Meeting to Consider Options Regarding the Requested Disclosure of Zero Emission Vehicle (ZEV) Credit Data Based on Submittals by Vehicle Manufacturers Who Have Designated the Data as Confidential Trade Secret Information

The Board will consider a tabled motion to disclose, after 21 days' notice, information compiled by ARB from submittals by vehicle manufacturers of information on their production of ZEVs, partial ZEV allowance vehicles (PZEV) and advanced technology PZEVs, and any exchanges of ZEV credits. This information, which was claimed to be trade secret by all large volume manufacturers, is relevant to the upcoming rulemaking on proposed amendments to the ZEV regulation. Staff will also report on efforts to reach an agreement with manufacturers to disclose information sufficient to assure a transparent rulemaking process.

CLOSED SESSION – LITIGATION

The Board will hold a closed session as authorized by Government Code section 11126(e) to confer with, and receive advice from, its legal counsel regarding the following pending litigation:

Central Valley Chrysler-Jeep, Inc. et al. v. Goldstene, U.S. District Court (E.D. Cal. - Fresno), No. 1:04-CV-06663-AWI-GWA.

Fresno Dodge, Inc. et al. v. California Air Resources Board and Witherspoon, Superior Court of California (Fresno County), Case No. 04CE CG03498.

General Motors Corp. et al. v. California Air Resources Board and Witherspoon, Superior Court of California (Fresno County), No. 05CE CG02787.

Massachusetts v. E.P.A., 127 S.Ct. 1438, 167 L.Ed.2d 248 (April 02, 2007.)

OPPORTUNITY FOR MEMBERS OF THE BOARD TO COMMENT ON MATTERS OF INTEREST.

Board members may identify matters they would like to have noticed for consideration at future meetings and comment on topics of interest; no formal action on these topics will be taken without further notice.

OPEN SESSION TO PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD ON SUBJECT MATTERS WITHIN THE JURISDICTION OF THE BOARD.

Although no formal Board action may be taken, the Board is allowing an opportunity to interested members of the public to address the Board on items of interest that are within the Board's jurisdiction, but that do not specifically appear on the agenda. Each person will be allowed a maximum of three minutes to ensure that everyone has a chance to speak.

TO SUBMIT WRITTEN COMMENTS ON AN AGENDA ITEM IN ADVANCE OF THE MEETING GO TO:
http://www.arb.ca.gov/lispub/comm/bclist.php

IF YOU HAVE ANY QUESTIONS,
PLEASE CONTACT THE CLERK OF THE BOARD
1001 I Street, 23rd Floor, Sacramento, CA 95814

(916) 322-5594
FAX: (916) 322-3928
ARB Homepage: www.arb.ca.gov

To request special accommodation or language needs, please contact the following:

- **For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services.**
- **If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.**

THE AGENDA ITEMS LISTED ABOVE MAY BE CONSIDERED IN A DIFFERENT ORDER AT THE BOARD MEETING.

SMOKING IS NOT PERMITTED AT MEETINGS OF THE CALIFORNIA AIR RESOURCES BOARD

Submittal of Public Comments:

- Comments should be submitted through the Electronic Docket System; however we will accept them by mail or fax if necessary. All hard copy comments are scanned and logged into the ARB Electronic Docket System.
- All comments are posted on the ARB Docket System to be viewed by staff and the public.
- The public may submit comments from the ARB Outside page under "Board Item Comments" (see example 1).
- All open listservs and item descriptions are shown here (see example 2).
- The public completes the Board Comments Submittal Form, which must include: first and last name, email address, subject, and message. Commenter's may also attach any files to this form (see example 3).
- Comments can be sent in the body of the email or as an attached file. The commenter then clicks "Submit" to send their comments to the Clerk of the Board (COTB) via the docket system (see example 4).
- The commenter receives a screen accepting their comment and are also sent an email acknowledging their comment was received (see example 5).
- Any public comments received by staff should be re-directed to the ARB Electronic Docket System to ensure inclusion in the record.

Acceptance of Submitted Public Comments:

- All 45-day public comments must be submitted and received by the COTB by noon the day before the hearing (as stated in the notice).
- The COTB will accept written comments at the Board meeting if delivered in person by the commenter or their representative.

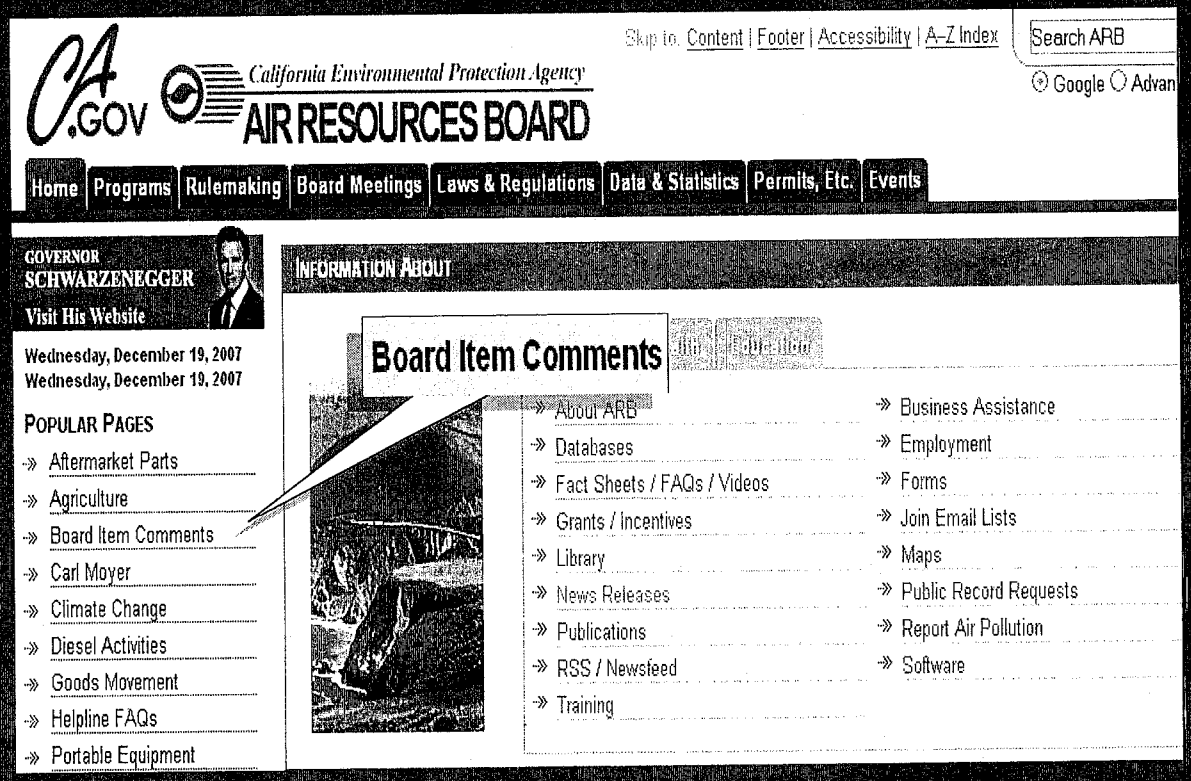
Distribution of 45-Day Comment Letters:

- Hard copies of comments received by the COTB are distributed to all Board members, the Executive Officer, appropriate Deputy Executive Officer, Chief Counsel, Ombudsman, Attorney, Division, and Regulation's Coordinator.
- Copies of comments received for each Board item are also included in the folders distributed to Board members, Executive staff, and staff at the Board meeting.

Accessing Public Comments:

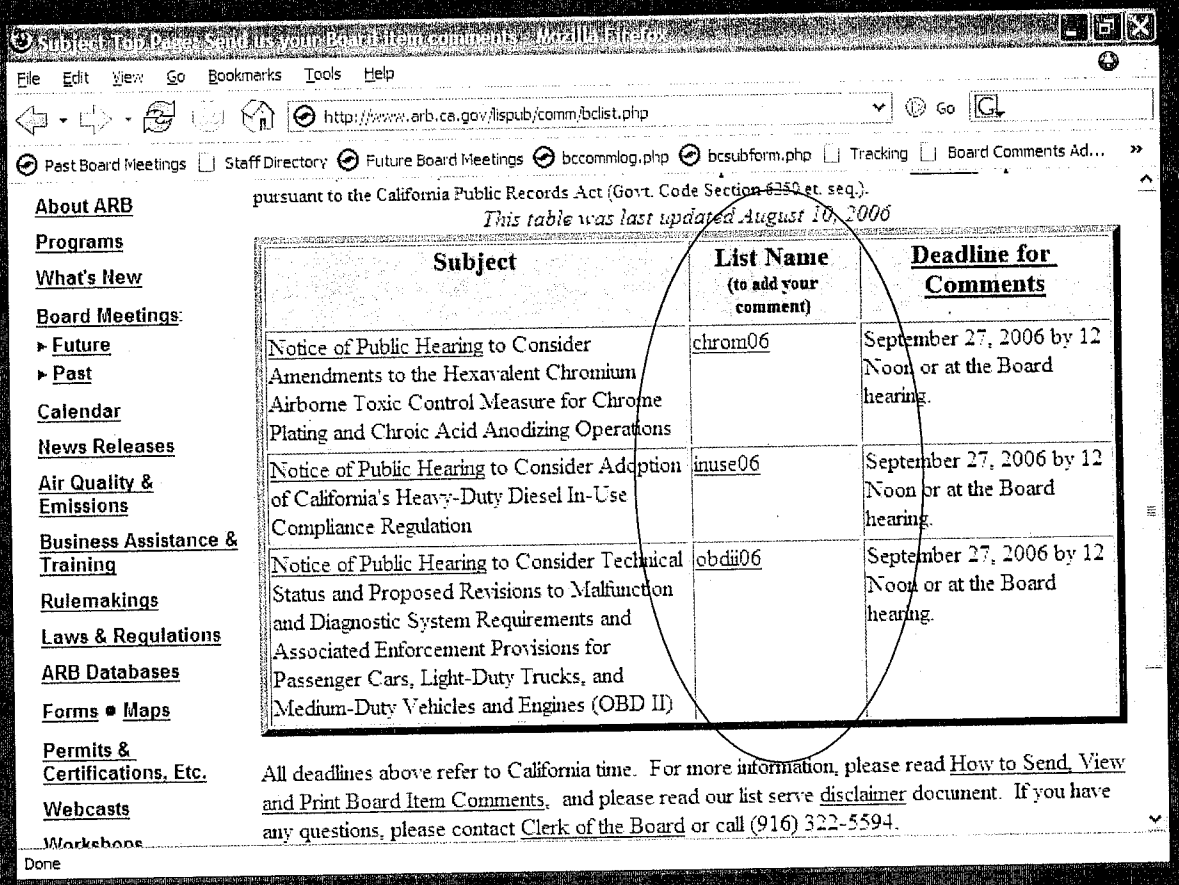
- The public may access comments received by the COTB from the ARB outside web page by clicking the "Board Item Comments" (see example 6)
- Click the "Viewable Public Comments," this will link you to the Board meeting comment logs (see example 7).
- The "Board Meeting Comment Logs" displays all current and past Board items open(ed) for public comment (see example 8).
- Find the title of the item your are interested in and select the comment log by the "list name" on the right side.
- The comment log for the selected list name is displayed (see example 9).

- To Send in Board Item Comments
- Access to the ARB Homepage at: www.arb.ca.gov/hompage.htm
- Select "Board Item Comments" on the left-hand column



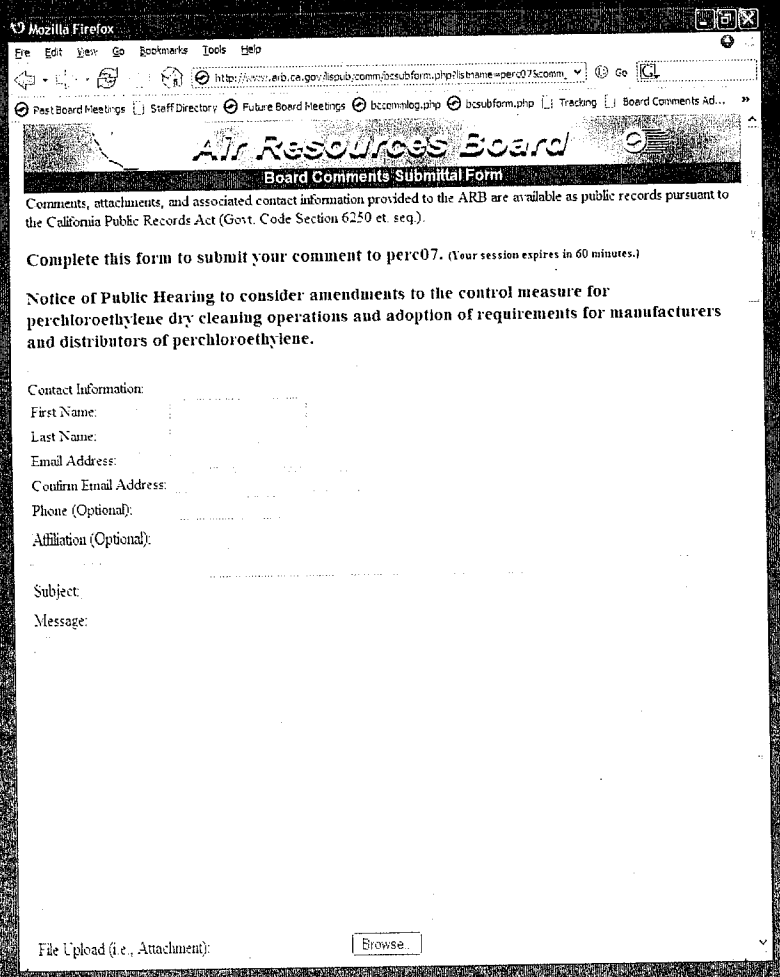
EXAMPLE 1

- The table below will display all Board items available for public comment
- Select the appropriate item from the "List Name" table



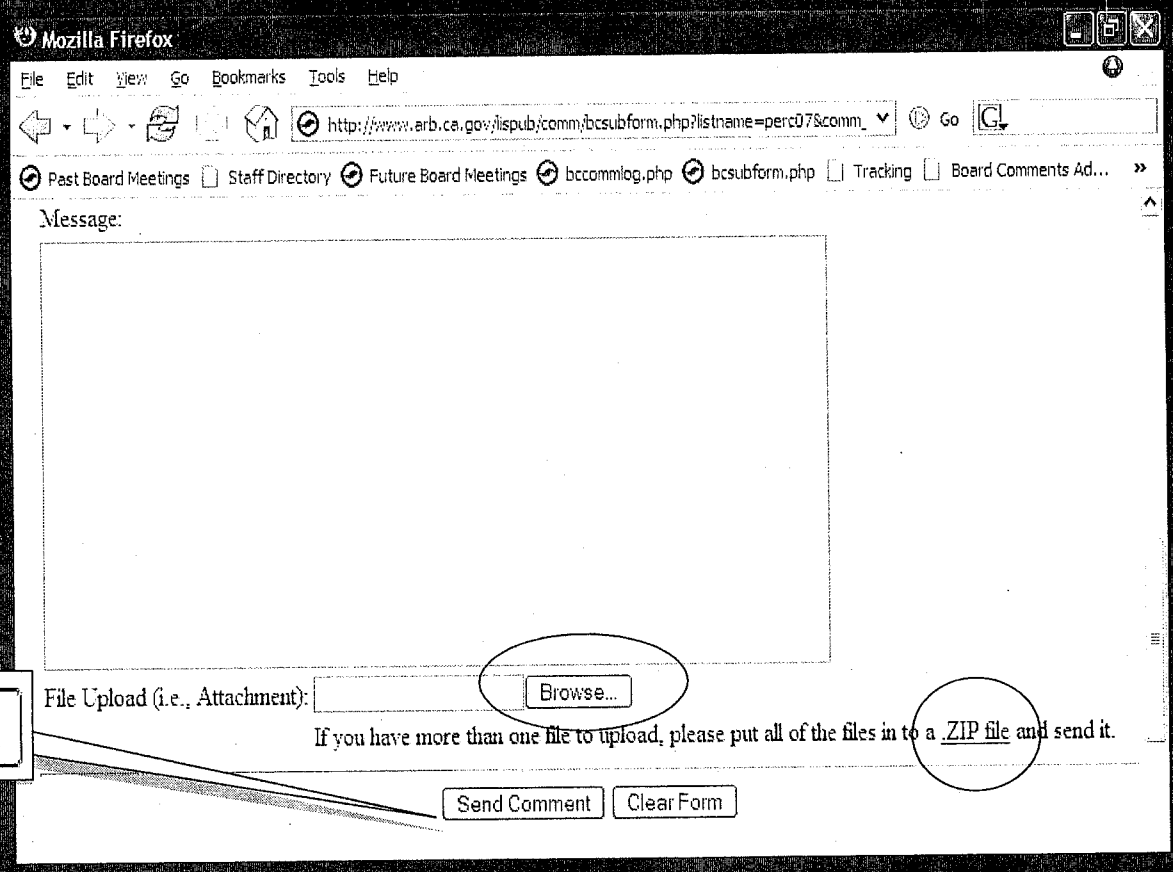
EXAMPLE 2

- Fill out this form, including first/last name, email address, subject, and a comment (either in the "Message" section, or as an attached document)



EXAMPLE 3

- To attach a document to the comment letter form, select the "Browse" button and attach the file
- To attach multiple documents, create a Zip file
- When the form is completed, select the "Send Comment" button to submit your comment



Send Comment

EXAMPLE 4

- The screen on the left indicates the comment was received into the system and displays the information filled out on the previous screen
- You will also receive confirmation, via email, that your comment has been submitted

Mozilla Firefox

File Edit View Go Bookmarks Tools Help

http://www.arb.ca.gov/lispub/comm/bcproc.php

Past Board Meetings | Staff Directory | Future Board Meetings | bccommlog.php | bcsubform.php | Tracking | Board Comm

California Home | ARB Home | Contact Us | Software | Links | Site Ma

Welcome to California

Air Resources Board

Thank you for your input.

Your comment as shown below has been forwarded to the Clerk of the Board.

A copy of this submittal is being sent to the email address you provided. If you don't receive this email, then you may incorrectly entered your email address. For more information, please see our disclaimer.

We recommend that you print this page for your records.

Re: Board Comment Submittal for perc07: Submittal of Public comment - Thu

File Edit View Go Message Tools Help

Get Mail | Write | Address Book | Reply | Reply All | Forward | Delete | Junk | Print

Subject: Re: Board Comment Submittal for perc07: Submittal of Public comment
From: owner-perc07@listserv.arb.ca.gov
Date: 9:39 AM
To: jteixeir@arb.ca.gov

Thank you for taking the time to send the Air Resources Board (ARB or Board) your views concerning an issue scheduled for ARB action.

If your comment concerned a regulatory item, you will receive notice of additional public comment periods, if any, on that item. However, this notice will be exclusively via email unless you provide me with a physical address to which you would like a hard copy of the notice to be mailed.

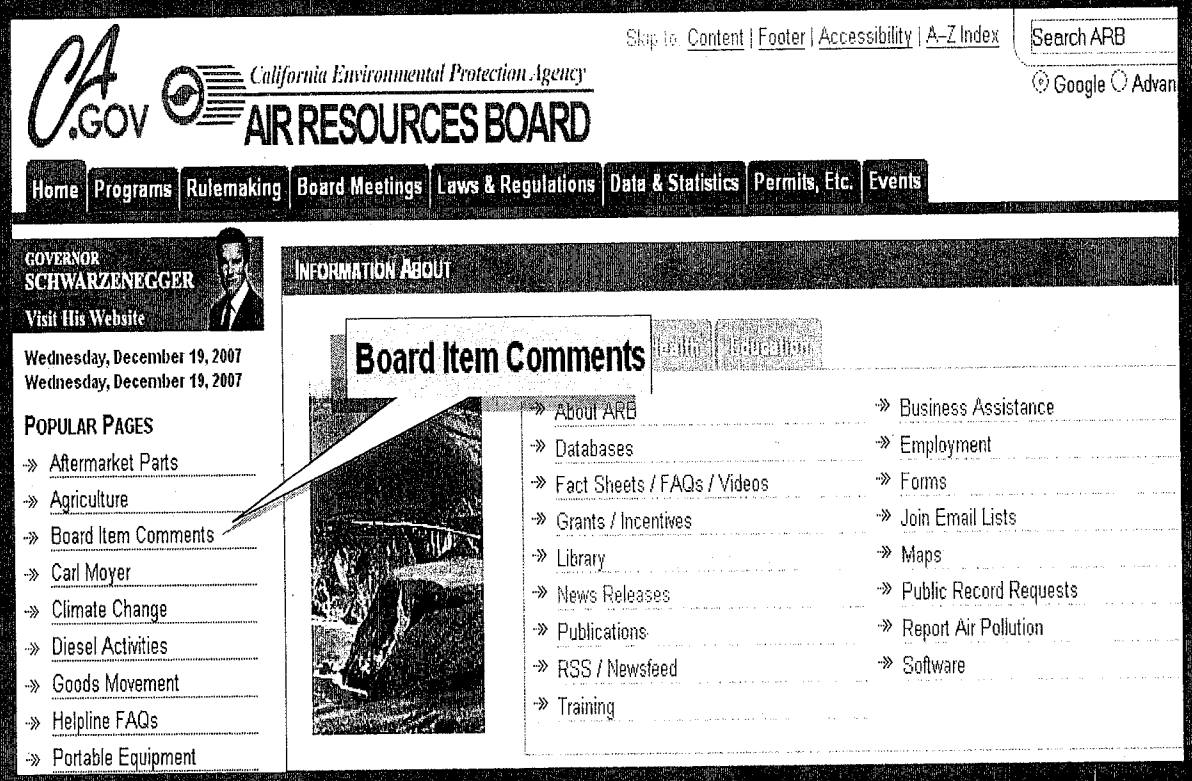
A summary of Board actions on public hearing items and hearing transcripts are available at our web site, http://www.arb.ca.gov/board/board.htm .

In addition, updates on specific regulatory items are available through http://www.arb.ca.gov/html/lawsregs.htm .

EXAMPLE 5

- To view comments for upcoming Board meetings or past meetings go to:

http://www.arb.ca.gov/hompage.htm



EXAMPLE 6

- In the "Viewable Public Records" section of the table select "Click Here"

Subject Top Page: Send us your Board item comments - Mozilla Firefox

File Edit View History Bookmarks Yahoo! Tools Help

http://www.arb.ca.gov/lispub/comm/bclist.php

Broadcast Com Logs Comment Docket Sys. Room Res Staff Directory Board Meetings

Search Web Mail My Yahoo! Answers Google Advanced

Viewable Public Records

.GOV AIR RESOURCES BOARD

Home | Programs | Rulemaking | Board Meetings | Laws & Regulations | Data & Statistics | Forms, Etc. | Events

SEND US YOUR BOARD ITEM COMMENTS

Wednesday, December 19, 2007

RESOURCES

- About ARB
- Business Assistance
- Databases
- Employment
- Factsheets / FAQs / Videos
- Find Your Community
- Forms
- Grants / Incentives
- Join Email Lists
- Library
- Maps
- News Releases
- Public Records Requests
- Publications
- Report Air Pollution
- RSS / Newsfeed
- Software
- What's New

Please note that your written and oral comments, attachments, and associated contact information (e.g. your address, phone, email, etc.) become part of the viewable public record. Additionally, this information may become available via Google, Yahoo, and any other search engines.

This table was last updated December 19, 2007

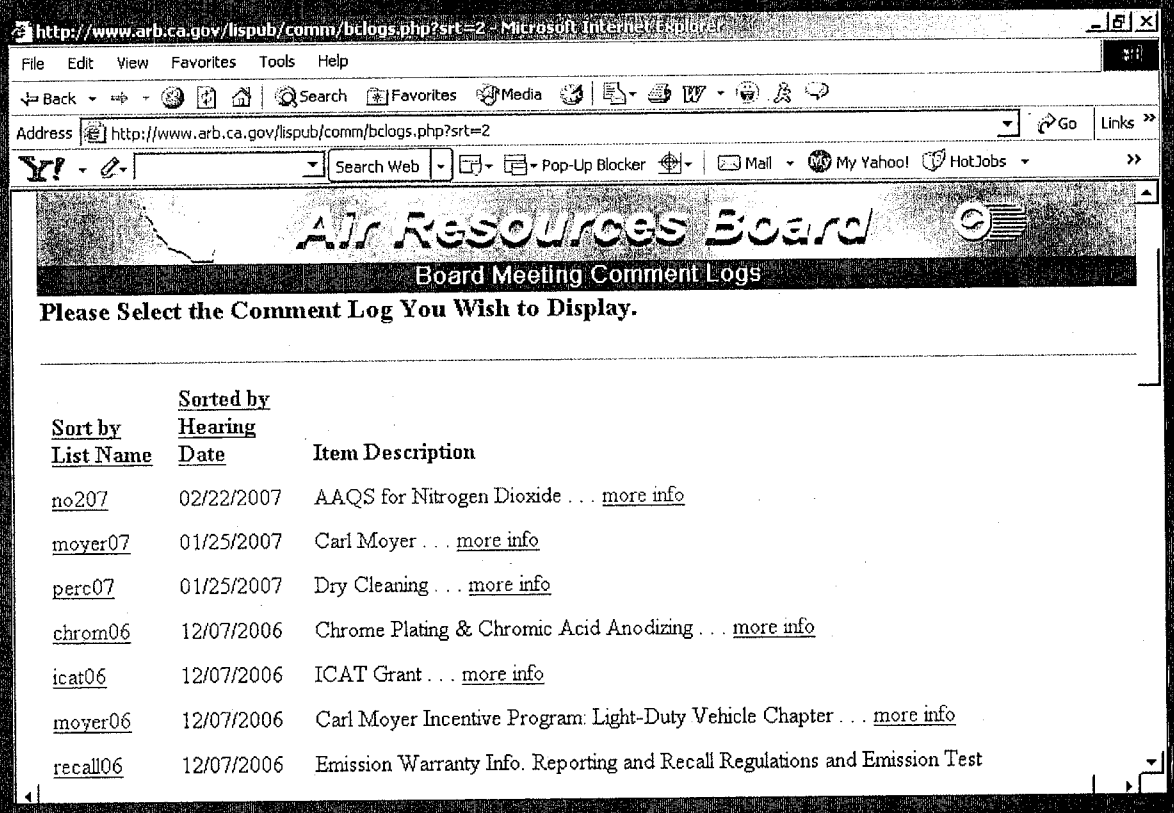
Subject	List Name (to add your comment)	Deadline for Comments
15-Day Notice of Public Availability of Modified Text and Availability of Additional Documents and Information for the Proposed Amendments to the Emission Control and Smog Index Labels Regulations	labels07	December 26, 2007 by 5 P.M.
15-Day Notice of Public Availability of Modified Text and Additional Documents and Information for the Proposed Regulation For In-Use Off-Road Diesel Vehicles	ordiesl07	December 28, 2007 by 5 P.M.
Notice of Public Hearing to Consider Amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines	verdev2008	January 23, 2008 by 12 Noon or at the Board hearing.

All deadlines above refer to California time. For more information, please read How to Send, View and Print Board Item Comments, and please read our list serve disclaimer document. If you have any questions, please contact Clerk of the Board or call (916) 322-5594.

http://www.arb.ca.gov/lispub/comm/bclogs.php

EXAMPLE 7

- Select which item's comments you wish to view; comments logs can be sorted by the list name or by the hearing date



EXAMPLE 8

- Comments are displayed in a table, listing the commenter's name, affiliation, subject of the comment, the open period for comment, and when the comment was received

http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=chrom06 - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Search Favorites Media

Address http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=chrom06 Go Links

Search Web Pop-Up Blocker Mail My Yahoo! HotJobs

Air Resources Board

Board Meeting Comments Log

Below is the Comment Log for Chrome Plating & Chromic Acid Anodizing (chrom06).

#	Received From	Subject	Comment Period	Date/Time Added to Database	Additional Form Letters
1	Cunningham, Daniel, Metal Finishing Assoc. of So. CA Inc.	Comments on 8/11/06 CARB Staff Report & CARB PAATCM, Appendix A	45 Day	2006-09-05 10:12:16	
2	Caswell, Mike, Caswell & Sons Inc	Hexavalent chrome	45 Day	2006-09-06 13:39:05	
3	Sulgit, Steven, United Airlines	United Airlines' Comments on ARB's Proposed Amendment to Section 93102: Hexavalent Chrom..	45 Day	2006-09-08 10:16:57	

EXAMPLE 9

15-Day Comment Letters:

- 15-day comments are also received through the ARB Electronic Docket System.
- 15-day comments are posted on the same comment logs as the original 45-day comments (see example 10).
- 15-day comments are distributed to the Deputy Executive Officer, Chief Counsel, Attorney, staff, and the Regulations Coordinator.

- 15-day comments on located on the same logs as original 45-day comments
- Check the "Comment Period" column to verify 15-day comments

Mozilla Firefox

File Edit View Go Bookmarks Tools Help

http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=lore2006

Past Board Meetings | Staff Directory | Future Board Meetings | bccommlog.php | bcsubform.php | Tracking | Board Comments Ad...

	America,Inc	Spark-Ignition Rule		11:48:57	
18	Wyman, Robert, Latham and Watkins	Comments on LSI rulemaking	45 Day	2006-05-24 11:53:19	
19	Neenan, Rob , CA League of Food Processors	CLFP Comments regarding proposed modifications to the LSI forklift rule	15-1	2006-12-05 16:00:40	
20	Gault, Roger, Engine Manufacturers Association	EMA Comments to the 15-day Notice of ARB's Proposed Off-Road LSI Fleet Requirements	15-1	2006-12-18 13:17:55	
21	Hidemi, Harada,	SAE J2260 Category-1 Specification	15-1	2007-01-10 20:43:18	
22	Cross, Gary , Industrial Truck Association	15-day comments on LSI rulemaking	15-1	2007-01-11 12:44:22	
23	Hay, Karen, IMPCO Technologies	IMPCO's Comments to ARB's Proposed Modifications to the LSI Regulations	15-1	2007-01-12 15:26:12	

Done

EXAMPLE 10

Board Member Briefings

- Which Board members to brief on each Board item are determined and finalized at the logistics meetings based on the Division recommendations, with concurrence from executive officer and deputies.

- Only five (5) Board Members can be briefed on any item per Open Meeting Act. (Chairman is considered the fifth Board member and is always briefed on each agenda item).

- After logistics meeting, the Board Member Liaison contacts the Board members regarding the information on upcoming board meeting and sets up designated briefings for them. Briefings are set up according to Board member's schedules and are usually done by phone, but occasionally in person at ARB in Sacramento or El Monte.

- Briefing memos are faxed to Board members and sent via email to appropriate staff.

Revised 1/2008

Board Item Summary

- Board Item Summaries are prepared for each Board item by appropriate division staff and forwarded to the Clerk (via email) for review and processing. The Clerk will log, finalize format, and route to the appropriate legal counsel, general counsel, appropriate deputy, and the Executive Officer for review and approval. *(see example 11 & template 1)*

- After approval, the Clerk receives the Board Item Summary for each Board item and includes them in the appropriate "Board item folder" for use by the Chairman, Board members, general counsel, executive officer, and deputies. The folders are distributed to the above staff at the Board meeting.

Revised 1/2008

State of California
Air Resources Board

BOARD ITEM SUMMARY

ITEM # 07-10-6: PUBLIC MEETING TO CONSIDER ADOPTING THE PROPOSED REGULATION FOR COMMERCIAL HARBOR CRAFT

STAFF RECOMMENDATION:
Approve the proposed regulation for commercial harbor craft with staff's originally proposed modifications and any other modifications requested by the Board at the hearing.

DISCUSSION:
In September 2000, the California Air Resources Board (ARB or Board) adopted a comprehensive Diesel Risk Reduction Plan (Plan), establishing a goal of reducing diesel PM emissions and the associated health risk by 85 percent in 2020. This proposed regulation for commercial harbor craft engines is a step toward achieving the goals of the Plan. In addition to the diesel PM reductions, the proposed regulation would reduce ozone precursor emissions and would improve the air quality in neighborhoods near California ports and waterways.

In April 2006, the ARB adopted the Goods Movement Emission Reduction Plan (GMERP). The GMERP established goals for controlling emissions from commercial harbor craft of 30% by 2015 and 40% by 2020. This proposed regulation for commercial harbor craft engines achieves these goals through the accelerated replacement of unregulated and Tier 1 engines (i.e. engines subject to U.S. EPA Tier 1 Standards for marine engines.)

Diesel PM and oxides of nitrogen (NOx) emissions from the operation of diesel engines on commercial harbor craft are approximately 3 tons per day (tpd) and 73 tpd, respectively. The recent ARB exposure study for the ports of Los Angeles and Long Beach showed commercial harbor craft to be the third largest source of diesel PM emission contributing to the cancer risk at the ports.

The proposal was developed through workshops and focus meetings involving owners and operators of commercial harbor craft, industry associations, environmental organizations, and other parties interested in commercial harbor craft.

The proposed regulation requires in-use (existing) unregulated (Tier 0) and Tier 1 auxiliary and propulsion engines, on ferries, excursion vessels, tugboats, and towboats, to be replaced with engines meeting U.S. EPA Tier 2 or Tier 3 marine engine standards. The in-use engine compliance schedule is based on replacing

the oldest, highest use engine first. The schedule for the South Coast Air Quality District (SCAQMD) is accelerated by two years. All new harbor craft would be required to install the cleanest available engines. New ferries would have an additional requirement to install the best available control technology on propulsion engines to further reduce diesel PM and NOx emissions. Replacement engines for all in-use harbor craft would also be required to meet new engine standards current at the time of engine purchase. In addition, all commercial harbor craft vessels will be subject to monitoring (use of non-resettable hour meters), recordkeeping, and reporting provisions.

The proposal was presented to the Board on October 26, 2007. At the hearing, the Board directed staff to provide additional information to the Board in response to several issues/questions at the November 15, 2008 Board hearing. These issues/questions included:

- evaluating the feasibility of accelerating the replacement schedule for Tier 0 engines;
- recognizing early investment in Tier 1 engines;
- providing flexibility for owners of multiple vessels with engine compliance requirements in the same year;
- investigating funding opportunities for excursion vessels;
- revisiting economics for small businesses;
- investigating new information on aftertreatment for ferries;
- estimating impact on greenhouse gas emission; and
- developing military vessel emissions inventory.

Staff will present its analysis responding to issues/questions at the hearing.

SUMMARY AND IMPACTS:

As reported previously, ARB staff estimates that, with the implementation of the rule, diesel PM and NOx emissions and associated health impacts will be reduced by 40 to 50 percent by 2015 and 60 to 70 percent by 2025, compared to a 2004 baseline. The SCAQMD accelerated schedule would provide early diesel PM and NOx and benefits with an estimated 30 percent reduction in diesel PM emissions and 25 percent reduction in NOx emissions, due to the regulation, compared to uncontrolled emissions in 2013.

The cost-effectiveness of the proposed regulation is estimated to be about $30 per pound of diesel PM reduced considering only the benefits of reducing diesel PM. Because the regulation will also reduce NOx emissions, half of the cost of compliance could be attributed to these benefits, resulting in cost effectiveness values of approximately $15 per pound of diesel PM and $1,800 per ton of NOx reduced.

The proposed regulation will result in significant reductions in exposure and potential cancer risks to residents that live near ports and California waterways.

State of California
Air Resources Board

BOARD ITEM SUMMARY

ITEM # __-__-__: **(BOLD/lower case, Title from the Public Agenda [e.g., Public Hearing to Consider...])**

STAFF RECOMMENDATION:
(Describe what the staff wants the Board to do. If no action is necessary, so state [e.g., if item is solely for information only.])

DISCUSSION:
(State in one or two single-spaced paragraphs the existing situation, events or decisions which prompted the item, and how the recommendation was derived [e.g., workshops, public consultation, etc.])

SUMMARY AND IMPACTS:
(Summarize in one or two short paragraphs the key policy issues or items of public controversy. If the Board action involves a change in existing Board regulation/policy, or an economic or environmental impact, a summary of these consequences must be presented.)

Personal Agenda (Personal Agenda Statements)

- The Chairman and Executive Officer's script is used during the Board meeting.

- Personal Agenda Statements for the Chairman and the Executive Officer are prepared for each Board item by division staff and forwarded to the Clerk (via email) for review and processing. The Clerk will finalize, log, and route to the appropriate legal counsel, general counsel, appropriate deputy, and the Executive Officer for review and approval. *(see example 12 & template 2)*

- After approval, the Clerk receives and compiles personal agenda statements for each Board item into a "personal agenda packets" for use by the Chairman and executive officer at the Board meeting. The final version is distributed to various appropriate staff usually two days prior to the Board meeting.

Revised 1/2008

State of California
AIR RESOURCES BOARD

AGENDA ITEM # 07-10-6

---

1. **CHAIRMAN'S OPENING STATEMENT:**

- THE NEXT ITEM FOR OUR CONSIDERATION IS A PROPOSED REGULATION FOR COMMERCIAL HARBOR CRAFT. THIS MEASURE IS IMPORTANT FROM THE PERSPECTIVE OF REDUCING NEIGHBORHOOD EXPOSURES TO DIESEL PARTICULATE MATTER AND REDUCING THE IMPACT OF PORT-RELATED EMISSIONS ON REGIONAL LEVELS OF PARTICULATE MATTER AND OZONE. STAFF BROUGHT THIS REGULATORY MEASURE TO US LAST MONTH FOR OUR CONSIDERATION. WE DIRECTED STAFF TO REEVALUATE AND REPORT BACK TO US ON SEVERAL ISSUES BOARD MEMBERS RAISED CONCERNING THE PROPOSED REGULATION.

- AT THIS TIME, I'D LIKE TO TURN THIS ITEM OVER TO OUR EXECUTIVE OFFICER, MR. GOLDSTENE.

2. **STAFF REPORTING:**

Todd Sterling, Air Pollution Specialist, Control Strategies Section, SSD (presenting)

Staff Seated at the Table:

Robert D. Fletcher, Chief, Stationary Source Division (SSD)
Dan Donohoue, Chief, Emissions Assessment Branch, SSD
Cherie Rainforth, Manager, Control Strategies Section, SSD
Floyd Vergara, Senior Staff Counsel

3. **OMBUDSMAN STATEMENT:**

- WOULD THE OMBUDSMAN, PLEASE DESCRIBE THE PUBLIC PARTICIPATION PROCESS THAT OCCURRED WHILE THIS ITEM WAS BEING DEVELOPED, AND SHARE ANY CONCERNS OR COMMENTS YOU MAY HAVE WITH THE BOARD.

4. **DO BOARD MEMBERS HAVE QUESTIONS?**

5. **PUBLIC TESTIMONY:** (If BOARD DECIDES TO OPEN FOR TESTIMONY)

- MR. GOLDSTENE, DO YOU OR THE STAFF HAVE ANY FURTHER COMMENTS?

6. **CLOSE THE RECORD:**

- I WILL NOW CLOSE THE RECORD ON THIS AGENDA ITEM. HOWEVER, THE RECORD WILL BE REOPENED WHEN THE 15-DAY NOTICE OF PUBLIC AVAILABILITY IS ISSUED. WRITTEN OR ORAL COMMENTS RECEIVED AFTER THIS HEARING DATE, BUT BEFORE THE 15-DAY NOTICE IS ISSUED, WILL NOT BE ACCEPTED AS PART OF THE OFFICIAL RECORD ON THIS AGENDA ITEM. WHEN THE RECORD IS REOPENED FOR A 15-DAY COMMENT PERIOD, THE PUBLIC MAY SUBMIT WRITTEN COMMENTS ON THE PROPOSED CHANGES WHICH WILL BE CONSIDERED AND RESPONDED TO IN THE FINAL STATEMENT OF REASONS FOR THE REGULATION.

7. **EX PARTE STATEMENT:**

- A REMINDER TO BOARD MEMBERS OF OUR POLICY CONCERNING EX PARTE COMMUNICATIONS WITH THE PUBLIC. WHILE WE MAY COMMUNICATE OFF THE RECORD WITH OUTSIDE PERSONS REGARDING BOARD RULEMAKING, WE MUST DISCLOSE THE NAMES OF OUR CONTACTS AND THE NATURE OF THE CONTENTS ON THE RECORD. THIS REQUIREMENT APPLIES SPECIFICALLY TO COMMUNICATIONS WHICH TAKE PLACE AFTER THE PUBLIC AGENDA OF THE BOARD HEARING HAS BEEN PUBLISHED. ARE THERE ANY COMMUNICATIONS THAT YOU NEED TO DISCLOSE?

8. **PAUSE TO REVIEW RESOLUTION:**

- THE BOARD HAS BEFORE THEM **RESOLUTION NUMBER 07-47**. DO I HAVE A MOTION AND A SECOND? FURTHER DISCUSSION?

9. **VOTE:**

- (VOICE VOTE OR ASK THE CLERK OF THE BOARD TO CALL THE ROLL)

EXECUTIVE OFFICER'S OPENING STATEMENT:

THANK YOU CHAIRMAN NICHOLS.

TODAY, WE WILL BE PROVIDING STAFF ANALYSIS OF SEVERAL ISSUES RELATED TO THE PROPOSED HARBOR CRAFT REGULATION THAT WE PRESENTED TO YOU LAST MONTH. THE PRIMARY QUESTION THAT YOU ASKED STAFF TO EVALUATE WAS WHAT WOULD BE THE IMPACT OF ACCELERATING THE STATEWIDE ENGINE REPLACEMENT SCHEDULE IN THE PROPOSED REGULATION. IN ADDITION, YOU ASKED STAFF TO PROVIDE ADDITIONAL INFORMATION ON FUNDING OPPORTUNITIES FOR EXCURSION VESSELS, NEW FERRY STANDARDS, GREENHOUSE GAS IMPACTS, AND MILITARY VESSEL EMISSIONS INVENTORY. STAFF HAS COMPLETED ITS EVALUATION AND IS PREPARED TO PROVIDE YOU THE RESULTS OF THEIR ANALYSIS.

I WOULD NOW LIKE TO HAVE MR. TODD STERLING OF OUR STATIONARY SOURCE DIVISION PRESENT THE STAFF'S PROPOSAL.

TODD?

EXECUTIVE OFFICER'S CLOSING STATEMENT:

CHAIRMAN NICHOLS AND MEMBERS OF THE BOARD, I BELIEVE THAT THE STAFF'S PRESENTATION SHOWS THAT STAFF HAVE ENDEAVORED TO ADDRESS BOTH THE NEED TO REDUCE EMISSISIONS FROM THESE VESSELS AND THE IMPACT ON THE AFFECTED INDUSTRIES THROUGHOUT THIS RULEMAKING EFFORT. ADOPTING THIS PROPOSAL WILL SUPPORT THE DIESEL RISK REDUCTION PLAN, THE STATE IMPLEMENTATION PLAN, THE GOODS MOVEMENT PLAN, AND HAVE A POSITIVE IMPACT ON THE HEALTH OF CALIFORNIANS. I URGE YOUR ADOPTION OF THE STAFF'S PROPOSED REGULATION.

BOARD MEETING *PERSONAL AGENDA STATEMENTS*

TO BE DONE IN MICROSOFT WORD AND EMAILTO THE CLERK OF THE BOARD BY SPECIFIED DUE DATE (SEE "LONG" TENTATIVE AGENDA OR LOGISTICS TENTATIVE AGENDA FOR DUE DATES)

STATE OF CALIFORNIA
AIR RESOURCES BOARD

AGENDA ITEM # goes here

(AGENDA ITEM NUMBER IS DETERMINED AT THE "LOGISTICS" MEETING AND CAN BE FOUND ON THE "LOGISTICS TENTATIVE AGENDA")

1. **CHAIR'S OPENING STATEMENT:**
   (THE CHAIRMAN'S OPENING STATEMENT SHOULD BE DOUBLE-SPACED AND IN FULL CAPS, LIMIT TO TWO OR THREE SHORT PARAGRAPHS.)

2. **STAFF REPORTING:** (INCLUDE NAME, TITLE, AND SECTION OF PERSON "REPORTING")

   Staff Seated at the Table:
   (List all "Division" staff that will be sitting at the table during the staff presentation, include names and titles in lower case text)

--USE PAGE BREAK HERE--

EXECUTIVE OFFICER'S OPENING STATEMENT:
(THE EXECUTIVE OFFICER'S STATEMENT SHOULD BE DOUBLE-SPACED AND IN FULL CAPS ON A SEPARATE PAGE OTHER THAN THE CHAIRMAN'S STATEMENT USE A "PAGE BREAK")

--USE ANOTHER PAGE BREAK HERE--

EXECUTIVE OFFICER'S CLOSING STATEMENT:
(THE EXECUTIVE OFFICER'S CLOSING STATEMENT SHOULD BE DOUBLE-SPACED AND IN FULL CAPS)

Staff PowerPoint Presentations

- The presentations are prepared and approved by the appropriate division staff and emailed to the Clerk of the Board two-days prior to the Board meeting.

- The Clerk will prepare and include the presentation in the appropriate "Board item folder" for use by the Chairman, Board members, general counsel, executive officer, and deputies. The folders are distributed to the above staff at the Board meeting.

- If the Clerk does not receive the staff presentation on the designated date, staff will need to make one (1) color copy (2 slides per page, and stapled) for the Chairman and an additional 30 black & white copies (2 slides per page, back to back, stapled) for the Board members, executive staff, etc. Staff will be responsible to provide the Clerk with the appropriate copies of their presentation accompanied with a diskette (or CD) one day prior to the meeting or at the absolute latest by 8:00 a.m. on the morning of the Board meeting.

- The Clerk will post the staff presentation on the ARB website the morning of the Board meeting.

Revised 1/2008

Resolutions

- All regulatory items (and some non-regulatory items) have proposed resolutions that are presented to the Board at the Board meetings to vote on staffs' recommendations. *(see example 13)*

- Resolutions are prepared by division staff and coordinated with their appropriate legal counsel. Once approved by legal counsel, staff will forward the proposed resolution to the Regulations Coordinator (via email) for review and processing.

- The Clerk of the Board assigns all Resolution numbers.

- The Regulations Coordinator will review, log, and route to the General Counsel, appropriate deputy, and the Executive Officer for review and approval.

- The Regulations Coordinator prepares a summary with attached proposed resolutions and passes them out to the Board members and appropriate staff at the beginning of the Board meeting.

- Board members will cast their vote on the resolution after the agenda item has been heard.

- Following the Board meeting, the "final" resolution is prepared by the Clerk of the Board and routed through the assigned attorney and the Chief Counsel for review and approval. The Clerk will sign the approved final resolution and distribute copies to appropriate staff (i.e., Division staff, Regs. Coordinator) and the original resolutions are filed in the official resolution binder. On "Regulatory" Board items, the Regulations Coordinator will post the final resolution on the "Board item Rulemaking web page."

Revised 1/2008

State of California
AIR RESOURCES BOARD

RESEARCH PROPOSAL

Resolution 07-37

September 27, 2007

Agenda Item No.: 07-9-2

WHEREAS, the Air Resources Board has been directed to carry out an effective research program in conjunction with its efforts to combat air pollution, pursuant to Health and Safety Code sections 39700 through 39705;

WHEREAS, a research proposal, number 2637-257, entitled "Is Disparity in Asthma Among Californians due to Higher Pollutant Exposures, Greater Susceptibility, or Both?" has been submitted by the University of California, Los Angeles;

WHEREAS, the Research Division staff has reviewed and recommended this proposal for approval; and

WHEREAS, the Research Screening Committee has reviewed and recommends for funding:

> Proposal Number 2637-257, entitled "Is Disparity in Asthma Among Californians due to Higher Pollutant Exposures, Greater Susceptibility, or Both?" has been submitted by the University of California, Los Angeles, for a total amount not to exceed $299,794.

NOW, THEREFORE BE IT RESOLVED, that the Air Resources Board, pursuant to the authority granted by Health and Safety Code section 39703, hereby accepts the recommendation of the Research Screening Committee and approves the following:

> Proposal Number 2637-257, entitled "Is Disparity in Asthma Among Californians due to Higher Pollutant Exposures, Greater Susceptibility, or Both?" has been submitted by the University of California, Los Angeles, for a total amount not to exceed $299,794.

BE IT FURTHER RESOLVED, that the Executive Officer is hereby authorized to initiate administrative procedures and execute all necessary documents and contracts for the research effort proposed herein, and as described in Attachment A, in an amount not to exceed $299,794.

I hereby certify that the above is a true and correct copy of Resolution 07-37, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board

During the Board Meeting

- The Chairman announces the agenda item and makes brief remarks regarding the item. He/she then asks the executive officer to introduce the item.

- The Executive Officer gives further details in his/her introductory remarks and introduces staff who will be making the presentation.

- Staff gives their presentation.

- Following the staff presentation, the Chairman asks the Ombudsman's office to explain the Outreach Activity completed on the item being heard.

- After the Ombudsman's report, the Chairman asks if Board members have any questions of staff. The Chairman will proceed to call any witnesses who have signed up to testify.

- After public testimony, the Chairman asks staff to summarize any written submissions by individuals who have not given oral testimony.

- The Chairman asks the Executive Officer if he/she has any further remarks. The Executive Officer usually makes a few closing remarks on the item.

- The Chairman then closes the record, or if appropriate will close the record and states that it will be re-opened when the 15-day notice of public availability is issued. If the item is non-regulatory, it is not necessary to close the record.

- If the item <u>is</u> regulatory, the Chairman asks if the Board members have any ex-parte communications to declare.

- If there is a resolution, the Chairman asks the Board to take a few moments to review it. He/she then asks for a motion and a second to adopt the staff proposed resolution.

- The Chairman then asks for a voice vote or for the Clerk to call the roll for a vote on the Resolution.

Revised 1/2008

Post Board Meeting Summary

- After the Board meeting is over, each division is responsible for preparing a "post" summary of their item. The "post" summary describes the staff recommendations, issues discussed, testimony given, and action taken by the Board. *(see example 14 & template 3)*

- After division level approval, the "post" summaries (from each division) are sent to the Clerk (via email) for processing.

- The Clerk reviews and compiles each division's summary into one document. When completed, the Clerk will route to the General Counsel, appropriate deputies, and the Executive Officer for review and approval.

- Once approved, the Clerk will post the final "post" summary on the ARB website (see past Board meetings on our webpage). The original "post" summary will be filed in the Board book as part of the official public record in the Legal office.

Revised 1/2008

State of California
AIR RESOURCES BOARD

Summary of Board Meeting
February 22, 2007

California Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California

MEMBERS PRESENT: Robert F. Sawyer, Ph.D., Chairman
Sandra Berg
Dorene D'Adamo
Henry Gong, Jr., M.D.
Jerry Hill
Lydia Kennard
Ronald O. Loveridge
Barbara Riordan
Daniel Sperling

Agenda Item #

07-2-1: **Public Hearing to Consider Amendments to the Ambient Air Quality Standard for Nitrogen Dioxide**

SUMMARY OF AGENDA ITEM:

Staff presented recommendations for amending the Ambient Air Quality Standard for nitrogen dioxide based on a review of the existing standard. The health-based standard review was a requirement of The Children's Environmental Health Protection Act (Senate Bill 25, Escutia, 1999).

On January 5, 2007, staff released a report to the public containing the proposed amendments to the nitrogen dioxide standard. Staff recommended that the Board adopt amendments to reduce the one-hour average standard from 0.25 parts per million (ppm) to 0.18 ppm, not to be exceeded, and adopt a new annual average standard of 0.030 ppm, not to be exceeded. Staff also proposed retention of the currently used chemiluminescent monitoring method to determine ambient concentrations, and incorporate by reference all federally approved methods (i.e. samplers) for nitrogen dioxide as "California approved samplers."

The recommendations were based on an extensive review of the scientific literature by staff from the Air Resources Board (ARB or the Board) and from the Office of Environmental Health Hazard Assessment, as well as university or government health department contractors. A draft staff report and technical support document were released to the public for comment on April 14, 2006. The draft report and document were peer-reviewed by the Air Quality Advisory Committee (the Committee), an external scientific review committee that was appointed by the Office of the President of the University of California.

The proposed one-hour standard is based on results from controlled human exposure studies, which indicate that exposure to nitrogen dioxide causes a number of adverse health effects, including increased airway hyperactivity, increased airway inflammation, and enhanced response to allergen in asthmatics after exposure to nitrogen dioxide. Also, in selecting the level of the standard, a margin of safety was incorporated.

The proposed annual average standard is based on results from epidemiological studies which found associations between nitrogen dioxide exposure and adverse health effects, including emergency room visits and hospital admissions for asthma, reduced lung function and lung growth in children.

Dr. Michael Kleinman, Chairman of the Committee, summarized the Committee's findings. It found that the review was very comprehensive and supported the overall conclusions used to develop the standards. The Committee endorsed the proposed one-hour and annual standards and indicated that the nitrogen dioxide monitoring network should include spatial variation and monitoring of "hot spots."

The Board heard testimony from one witness, who was in support of the adoption of the new standards.

The Board inquired about the number of digits provided in the summary slide of nitrogen dioxide standards and guidelines. Staff responded that the guidelines were originally reported in micrograms per cubic meter, and that staff reported the parts per million equivalent to three decimal places. The current and proposed California standards are presented in two significant figures. The Board also inquired if lowering the standard would have the effect of lowering other pollutants. Staff noted that there would be a projected decrease in the ozone and particulate matter

concentrations, since oxides of nitrogen are precursors of these pollutants as well. The Board also inquired how the new one hour standard was derived with its margin of safety. Staff responded that there were effects observed at 0.25 ppm to 0.26 ppm and possibly at 0.1 ppm. Staff indicated that 0.18 ppm was between these values with an added margin of safety. The Board also emphasized the importance of new health effects research to fill information gaps to help support the standards.

ORAL TESTIMONY:

Bonnie Holmes-Gen, American Lung Association

FORMAL BOARD ACTION: The Board approved Resolution Number 07-8 by a unanimous vote, adopting the proposed amendments.

RESPONSIBLE DIVISION: Research Division

STAFF REPORT: Yes

07-2-2: **Status Report on California's Fuel Programs**

SUMMARY OF AGENDA ITEM:

Staff updated the Board on the status of California's motor vehicle fuels program, including information about gasoline, diesel, alternative fuels and the Governor's recently announced low carbon fuels initiative.

Staff gave a brief history and overview of California's reformulated gasoline program and its diesel fuel program before previewing the upcoming changes to California's gasoline regulations and providing a status update on the successful implementation of California's low sulfur diesel regulation. The biggest change to California's reformulated gasoline program will be the update to the California Phase 3 reformulated gasoline Predictive Model, which will require the mitigation of excess emissions from ethanol permeation.

The staff then updated the Board on activities related to alternative fuels. This included updates on the E85 demonstration program, biodiesel and other research activities, and the development of alternative fuel specifications. In addition, the staff updated the

Board on the status of efforts to develop the State's Alternative Fuels Plan pursuant to AB 1007.

In 2006, Governor Schwarzenegger signed into law the Global Warming Solutions Act of 2006. This landmark legislation is designed to reduce greenhouse gas emissions. In January 2007, Governor Schwarzenegger signed Executive Order S-01-07, establishing a goal for reducing greenhouse gas emissions and petroleum dependency through the use of low carbon fuels. By 2020, the goal is to reduce the carbon intensity of California's transportation fuels by at least 10 percent. Staff presented the status of activities to implement the low carbon fuel standard.

The two biggest issues on the horizon are upcoming changes to California's gasoline regulations to mitigate excess emissions from ethanol permeation, and the gradual decarbonization of vehicular fuels to reduce greenhouse gases and increase the State's fuel diversity. The former will come before the Board in June 2007 and the latter is tentatively scheduled for Board consideration in December 2008.

The purpose of this informational briefing was to give the Board a common foundation on the history of California's motor vehicle fuels regulations.

ORAL TESTIMONY:

Bonnie Holmes-Gen, American Lung Association
Doug Korthof, PV-EV

FORMAL BOARD ACTION: None (Informational Item)

RESPONSIBLE DIVISION: Stationary Source Division

STAFF REPORT: No

State of California
AIR RESOURCES BOARD

Summary of Board Meeting
[date of meeting]

California Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California

MEMBERS PRESENT: ***[clerk can fill in if you're not sure who attended]***

Agenda Item #

[__-__-__]: **[Item title as it appeared on the Public Agenda - use "bold" type and lower case, single space]**

SUMMARY OF AGENDA ITEM:

[Summarize your Board item, what happen at the Board meeting (single space/lower case)]

ORAL TESTIMONY:

[List the name and their organization of all public testimony heard for your Board item (single space/lower case)]

FORMAL BOARD ACTION:

[Specify what action the Board took on your item (single space/lower case)]

RESPONSIBLE DIVISION:

[Spell out your Division name]

STAFF REPORT: *[was there a staff report? Specify "yes" or "no"]*

TAB 8

FIFTEEN-DAY CHANGES

The regulatory proposal must be adopted as approved with the following exceptions:

1. Changes that are nonsubstantial or solely grammatical in nature may be made with out further notice. [Gov't Code sec 11346.38 (c)]

   "Nonsubstantial changes" are changes which clarify without materially altering the requirements, rights, responsibilities conditions. Or prescriptions contained in the original text. [Title 1, CCR, sec. 40]

2. Changes that are 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.

   If a sufficiently related changes is made, the full text of the resulting regulation shall be made available to the public for comment at least 15 days before the regulations is adopted. The agency must respond in the Final Statement of Reasons to written comments regarding the change received during the comment period. [Gov't Code sec 11346.8(c)]

   "Sufficiently related changes" are changes which "a reasonable member of the directly affected public could have determined from the notice that these changes to the regulations could have resulted. [Title1, CCR, sec. 42] These changes can be adopted after a 15-day availability period, pursuant to section 11346.8 (c).

Revised 01/03

TEMPLATE

NOTICE OF PUBLIC AVAILABILITY OF MODIFIED TEXT [AND AVAILABILITY OF ADDITIONAL DOCUMENTS AND INFORMATION]

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER [. . .]

Public Hearing Date: [. . .]
Public Availability Date: [. . .]
Deadline for Public Comment: [. . .]

At its [date], public hearing, the Air Resources Board (the Board) approved the [adoption, amendment, or repeal of section**(s) [. . .]**, title**(s) [13 or 17]**, California Code of Regulations (CCR), which **[briefly describe]**.

At the hearing, the staff presented, and the Board approved modifications to the regulations originally proposed in the Staff Report released on **[date]**, in response to comments received since the Staff Report was published. These modifications include **[briefly describe]**.

Attached is a copy of Board Resolution **[##-##]** approving **[new sections]/[sections . . .]**, as modified. The regulatory documents for this rulemaking are available online at the following ARB internet site:

http://www.arb.ca.gov/regact/xxxx/xxxx.htm (SAME AS IN 45-DAY NOTICE)

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section(s) **[. . .]**, title**(s) [13 or 17]**, CCR, 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 approved by the Board may be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal : http://www.arb.ca.gov/lispub/comm/bclist.php

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

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 text of the regulations shall be considered by the Executive Officer.

Attachments

EXAMPLE

NOTICE OF PUBLIC AVAILABILITY OF MODIFIED TEXT

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER PROPOSED REGULATION ORDER: AIRBORNE TOXIC CONTROL MEASURE TO LIMIT SCHOOL BUS IDLING AND IDLING AT SCHOOLS

Public Hearing Date:	December 12, 2002
Public Availability of Modified Text Date:	March 7, 2003
Deadline for Public Comment:	March 24, 2003

At a public hearing on December 12, 2002, the Air Resources Board (the "Board" or ARB) approved the adoption of Chapter 10 - Mobile Source Operational Controls, Article 1 - Motor Vehicles, section 2480, title 13, California Code of Regulations (CCR). The approved section 2480 is an airborne toxic control measure (ATCM) that will reduce children's and public exposure to diesel exhaust particulate matter (diesel PM) and other toxic air contaminants (TACs) by limiting unnecessary idling of school transportation buses and vehicles and of transit buses and other commercial motor vehicles operating at or near schools.

At the hearing, the staff presented, and the Board approved, minor modifications proposed in response to comments received during the public comment period that began on October 25, 2002, and ended at the hearing on December 12, 2002. The Board directed staff to make the following modifications to clarify the regulatory text:

A. Clarify that the ATCM applies only to school buses, school pupil activity buses, general public paratransit vehicles, youth buses, transit buses and other heavy-duty vehicles not used solely as private passenger vehicles.

In accordance with the Board's directive, the term "heavy-duty vehicle" has been replaced with the term "commercial motor vehicle" throughout the ATCM and subsection (h), Definitions, has been modified to delete the definition of "heavy-duty vehicle" and add the definition of "commercial motor vehicle."

The definition of "commercial motor vehicle" in modified subsection (h)(2) is based upon Vehicle Code section 15210(b) and includes any vehicle or combination of vehicles that requires a class A or B commercial driver's license or a class C driver's license with a hazardous materials endorsement. The definition also includes any motor truck with gross vehicle weight rating of 10,001 pounds or more. A definition of "motor truck" based upon Vehicle Code section 410 has been added as revised subsection (h)(9) of the ATCM. According to Vehicle Code section 410, a "motor truck" is a vehicle designed, used, or maintained primarily for the transportation of property. For the purposes

of the ATCM, a "commercial motor vehicle" does not include a zero emission vehicle or a pickup truck.

The net result of this modification to the ATCM is to substitute for the previous certification-specific "heavy-duty vehicle" definition a modified "commercial motor vehicle " definition that: 1) is more commonly understood by the regulated community and training and enforcement agencies; and 2) covers most of the heavy-duty vehicles originally proposed. As the Board directed, the modification to the ATCM excludes passenger cars and pickups from its applicability. In addition, the modification reduces potential complaint registration and enforcement problems by eliminating the need to determine whether vehicles between 6,000 and 10,001 pounds are being used solely to transport passengers. The modification does not specifically exclude the non-commercial use of unusually large (i.e., greater than 10,001 pounds) vans and covered-bed pickups; however, staff intends, and believes it would further the Board's intent, that such vehicles not be subject to citation for non-compliance with the ATCM's requirements if they are being used as private passenger vehicles.

For additional clarity, subsection (b), Applicability, of the ATCM has been modified to reference subsection (h), Definitions. Subsection (h) contains a definition for each passenger-type vehicle that is subject to the ATCM (i.e., the definitions of "school bus," "school pupil activity bus," "youth bus," "general public paratransit vehicle," and "transit bus") as well as the definition of "commercial motor vehicle."

B. Clarify that the exemption for idling to operate defrosters, heaters, air conditioners, or other equipment is to ensure the safety or health of the driver or passengers, or as otherwise required by federal motor carrier safety regulations.

As directed by the Board, subsection (d)(7) of the ATCM has been modified to broaden the exemption and to recognize other laws (i.e., State and federal) regulating the operation of defrosters, heaters, air conditioners, or other equipment. As part of the modification, the definition of "Emergency" in subsection (h), Definitions, was deleted since the term is no longer used in the ATCM.

C. Clarify that the California Highway Patrol are a subset of peace officers and need not be separately referenced and, in addition, to recognize that there are designees of peace officers who are authorized to enforce certain laws as peace officers.

In accordance with the Board's directive, subsection (g), Enforcement, has been modified to delete the words, "California Highway Patrol," and to identify peace officers as: "peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives." The modified language does not change those

agency representatives who may issue citations for violation of the ATCM; however, it does acknowledge that authorized representatives of law enforcement agencies may perform ancillary functions, e.g., review motor carrier records.

D. Clarify subsection (d)(5) of the ATCM to include refuse pickup as an example of an exemption for idling necessary to accomplish work for which a vehicle was designed.

As directed by the Board, subsection (d)(5) has been modified to add the collection of solid waste and recyclable materials by authorized entities as an example of an activity where idling is necessary to perform work for which a vehicle was designed. This modification does not expand or reduce the activities exempted by subsection (d)(5) of the ATCM.

In addition, the ATCM has been modified to update references, correct typos, and to make the following minor clarifications:

- Subsections (c)(3)(C) and (c)(4)(C) - The words, "as defined in subsection (g)," have been added to clarify "enforcement personnel."
- Subsection (d)(2) - The word, "driver's," has been added to clarify "daily vehicle inspection" because the driver's daily vehicle inspection is widely understood to be the inspection conducted just prior to commencing driving for the day.
- Subsection (h) - The introductory phrase, "The following terms are defined for the purposes of this section," has been added to clarify that certain commonly-used terms may be uniquely defined in the ATCM.

Enclosed with this notice are Enclosure 1, Board Resolution 02-33, which approves the regulatory action, and Enclosure 2, the text of the modified regulatory language. In Enclosure 2, deletions and additions to the originally proposed language are shown in ~~strike-out~~ and underline format, respectively.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt section 2480, title 13, California Code of Regulations, after making the modified language available to the public for comment for a period of at least 15 days, provided the Executive Officer consider such written comments as may be submitted during this period, make such modifications as may be appropriate in light of the comments received, and present the modified regulation to the Board for further consideration, if warranted.

Written and e-mail comments on the modifications shown in Enclosure 2 must be received no later than March 24, 2003, in order to be considered by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice shall be considered by the Executive Officer. Written comments must be addressed to the Clerk of the Board, Air

EXAMPLE

NOTICE OF PUBLIC AVAILABILITY OF MODIFIED TEXT AND AVAILABILITY OF ADDITIONAL DOCUMENTS AND INFORMATION

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text and Availability of Additional Documents and Information

PUBLIC HEARING TO CONSIDER TECHNICAL STATUS AND PROPOSED REVISIONS TO MALFUNCTION AND DIAGNOSTIC SYSTEM REQUIREMENTS AND ASSOCIATED ENFORCEMENT PROVISIONS FOR 2004 AND SUBSEQUENT MODEL YEAR PASSENGER CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES AND ENGINES (OBD II)

Public Hearing Date: April 25, 2002
Internet Posting Date: October 7, 2002
Public Availability Date: October 10, 2002
Deadline for Public Comment: November 1, 2002

The Board's Action. At its April 25, 2002, public hearing, the Air Resources Board (the "Board" or "ARB") approved the adoption of sections 1968.2 and 1968.5, title 13, California Code of Regulations (CCR). Upon becoming operative, section 1968.2 would establish OBD II requirements for 2004 and subsequent model year vehicles; section 1968.5 would establish an OBD II-specific in-use enforcement protocol.

At the hearing, the Board adopted Resolution 02-17 (appended to this notice as Attachment I), approving the proposed regulations with modifications. In approving the proposed regulations, the Board specifically included staff's suggested modifications to the initially noticed text, which were made available at the hearing. The suggested modifications were appended to the Resolution as Attachment B. In the Resolution, the Board directed the Executive Officer to incorporate the approved modifications into the proposed regulatory text, along with such other conforming modifications as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days.

Modified Text Being Made Available. The regulations, as modified, are appended to this notice as Attachments II (section 1968.2) and III (section 1968.5). Additions to the text are denoted by underline and deletions by ~~strikeout~~. In Attachment IV to this notice, staff explains and provides rationale for the proposed substantive modifications to the text. Within Attachment IV, the staff specifically identifies those substantive modifications that have been made since the April 25 hearing. In addition to the modifications detailed in Attachment IV, staff has made other minor modifications throughout sections 1968.2 and 1968.5 of title 13 to improve clarity and to correct citations and references.

Attachments I through IV may be obtained off the Internet at the address below:

http://www.arb.ca.gov/regact/obd02/obd02.htm

Printed copies may be obtained from Mike McCarthy, Manager, Advanced Engineering Section, of the ARB Mobile Source Control Division, at (626) 575-6615, or by faxing or

mailing the request form attached to the end of this notice to the address or number detailed on the form.

Supporting Documents and Information. In accordance with Government Code section 11347.1, the staff has added to the rulemaking record the following document, which is incorporated by reference in the regulations, as modified:

> SAE J1939 APR00-"Recommended Practice for a Serial Control and Communications Vehicle Network" and the associated subparts included in SAE HS-1939, "Truck and Bus Control and Communications Network Standards Manual", 2001 Edition (SAE J1939).

Staff has also corrected the name of the following document, which is incorporated by reference into section 1968.5, and was included in the original rulemaking record under an abbreviated document title.

> EMFAC2000 "Public Meeting to Consider Approval of Revisions to the State's On-Road Motor Vehicle Emissions Inventory: Technical Support Document, Section 7.1, 'Estimation of Average Mileage Accrual Rates from Smog Check Data,'" May 2000.

Staff has also added the following additional document that supports the proposed action:

> ARB Study of Current OBD II Monitoring Frequency (In-Use Testing Data)

Additionally, within the modified regulatory text, staff has revised and updated the titles and publication dates of several Society of Automotive Engineers (SAE) and International Organization of Standards (ISO) documents, which are incorporated by reference into section 1968.2. The changes reflect the recent decision of the two organizations to harmonize and jointly publish several of their publications. While the changes to the title for most of the incorporated documents is relatively insignificant, the publication change has necessitated deleting ISO 15031-5 from the text of 1968.2 and replacing it with the most recent version of SAE J1979, the full title of which is set forth below. The modified titles and latest publication dates of the documents that have been previously noticed as being incorporated by reference are:

1) SAE J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms – Equivalent to ISO/TR 15031-2:April 30, 2002", April 2002.
2) SAE J1962 "Diagnostic Connector – Equivalent to ISO/DIS 15031-3:December 14, 2001", April 2002.
3) SAE J1978 "OBD II Scan Tool – Equivalent to ISO/DIS 15031-4:December 14, 2001", April 2002.
4) SAE J1979 "E/E Diagnostic Test Modes – Equivalent to ISO/DIS 15031-5:April 30, 2002", April 2002.
5) SAE J1850 "Class B Data Communications Network Interface", May 2001.
6) SAE J2012 "Diagnostic Trouble Code Definitions – Equivalent to ISO/DIS 15031-6:April 30, 2002", April 2002.

7) ISO 9141-2:1994 "Road Vehicles-Diagnostic Systems-CARB Requirements for Interchange of Digital Information", February 1994.
8) ISO 14230-4:2000 "Road Vehicles-Diagnostic Systems-KWP 2000 Requirements for Emission-related Systems", June 2000.
9) ISO 15765-4:2001 "Road Vehicles-Diagnostics on Controller Area Network (CAN) - Part 4: Requirements for emission-related systems", December 2001.

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

Comments and Subsequent Action. In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt sections 2330, 2331, and 2332, title 13, CCR, 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 proposed modifications may be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail is to 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: obdii@listserv.arb.ca.gov

Facsimile submissions are to be transmitted to: (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 last day for supplemental comment listed at the beginning of this notice. Only comments relating to the modifications to the text of the regulations shall be considered by the Executive Officer.

If you are a person with a disability and desire to obtain this notice in an alternative format, please contact the ARB ADA Coordinator at (916) 232-4916. Persons with hearing or speech impairments can contact us by using our Telephone Device for the Deaf (TDD) at (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area

Attachments

Request for Attachments I through IV Documents

The documents listed on the lower portion of this page are available on the Air Resources Board's Web Site, which can be accessed at:

http://www.arb.ca.gov/regact/obd02/obd02.htm

If you would like to receive a hard copy of any of the documents, please mail or fax this form to:

Adrieann Carrillo
California Air Resources Board
9528 Telstar Avenue
El Monte, California 91731

FAX: (626) 575-7012 Phone: (626) 459-4405

Please check all that apply:

_____ Attachment I – Resolution 02-17 with Attachment A: [Staff Report and Proposed Regulations] and Attachment B: Staff's Suggested Modifications [at the Board Hearing] to the Proposed Regulations. (365 pages)

_____ Attachment II – Modified Text of Proposed Section 1968.2, Title 13, California Code of Regulations. (80 pages)

_____ Attachment III – Modified Text of Proposed Section 1968.5, Title 13, California Code of Regulations. (27 pages)

_____ Attachment IV – Rationale of Modifications to Proposed Sections 1968.2 and 1968.5, Title 13, California Code of Regulations. (16 pages)

Name: _____

Company: _____

Address: _____

_____

Internal Review Procedures

NOTICE OF PUBLIC AVAILABILITY AND MODIFIED TEXT REPORT (15-DAY NOTICE PACKAGE)

Notices of Public Availability of Modified Text and Modified Text are submitted to LEGAL from the division and must have a disk and all attachments included. The 15-Day Notices require a pink routing/approval slip and should be routed for approval as follows:

1. Division Chief
2. Assigned Regulations Coordinator
3. BARCU Manager
4. Assigned Attorney
5. General Counsel
6. Appropriate Deputy
7. Executive Officer
8. and back to the Regulations Coordinator for submittal to OAL for publication in the California Regulatory Notice Register

The Regulations Coordinators proofread the package and maintains the **final version** of the documents electronically in legal. The15-Day Notice and Modified Text are posted on ARB's Regulation Activity Website by the first day of availability.

Section 44 Public Availability of Changes to Regulations

(a) At least 15 calendar days prior to the adoption of a change to a regulation required to be made available to the public by Government Code section 11346.8(c), the rulemaking agency shall mail a notice stating the period with in which comments will be received together with a copy of the full text of the regulation as originally proposed, with the proposed change clearly indicated, to the following:

(1) all persons who testified at the public hearing; and
(2) all persons who submitted written comments at the public hearing; and
(3) all persons whose comments were received by the agency during the public comment period; and
(4) all persons who requested notification from the agency of the availability of such changes.

(b) The rulemaking record shall contain a statement confirming that the agency complied with the requirements of this section and stating the date upon which the notice and text were mailed and the beginning and the ending dates for this public availability period.

(c) If there were no persons in the categories listed in subsections (a)(1) through (a)(4), then the rulemaking record shall contain a confirming statement to that effect.

(d) Whether or not a mailing is required by subsections (a), the agency shall make the notice and text available to the public for at least 15 days at the location where the rulemaking record is maintained, and the confirming statement shall contain the beginning and ending dates for this public availability period.

Note: Authority cited: Sections 11342.4 and 11349.1(c), Government Code. Reference: Sections 11346.8(c) and 11347.3(a)(9), Government Code.

1

---

[1] Amendment of subsection (b) and adoption of new subsections (c), and (d) filed 6-26-90; operative 7-25-90 (Register 90, No.35).

MEMORANDUM

DATE: May 4, 1999

SUBJECT: **15-DAY CHANGES:** FORMAT FOR PRESENTING STAFF'S PROPOSED REGULATORY MODIFICATIONS AT BOARD HEARINGS, AND

RESOLUTIONS: FORMAT FOR IDENTIFYING ATTACHMENTS TO THE RESOLUTION

At Board hearings, the staff often presents suggested modifications to the text of the regulations proposed with the 45-day hearing notice. Since any significant changes to the originally proposed regulations must be made available to the public in a supplemental 15-day notice before final adoption, the suggested modifications are often referred to as "15-day changes." This memorandum describes a standard written format that staff should use whenever possible in presenting suggested 15-day changes at Board hearings, as well as a standard format for identifying the attachments to the proposed Resolution. Consistent use of these formats will minimize confusion at Board hearings and will help avoid later disagreements with stakeholders about exactly what changes were approved by the Board.

Staff should follow the three steps described below. The first step describes how to create the 15-day change document that contains staff's suggested changes. The second step describes how to modify the Resolution to refer to this document. The third step describes a sheet that identifies all of the attachments to the Resolution and should part of all Resolutions — not just those with 15-day changes.

If you have any questions on this memorandum, please contact Senior Staff Counsels Robert Jenne or Tom Jennings at 322-2884.

I. Creating a "15-day change" document entitled "Staff's Suggested Changes to the Original Proposal"

Staff's suggested 15-day changes should be described in a document that is physically distributed by staff at the Board hearing, including placement on the back table. The heading of the document should read as follows:

FOR CONSIDERATION BY THE AIR RESOURCES BOARD AT THE PUBLIC HEARING ON THE PROPOSED **[name of the rulemaking item, as it appears in the title of the 45-day notice]**

PRESENTED AT THE [DATE] BOARD HEARING

Staff's Suggested Changes to the Original Proposal

There are generally two options for preparing the text of this document.

Option #1 The first option is to provide the actual regulatory language of the suggested 15-day changes, with the changes highlighted using **bold double underline** to show additions to the original proposal and ~~**bold strikeout**~~ to show deletions. (Depending on the format used in the original proposal, it may be necessary to use some other appropriate way to highlight the suggested 15-day changes.) This option should be used when staff knows the actual language of the 15-day changes that will be presented to the Board.

Option #2 The second option is to provide a narrative description of the changes that staff is proposing, without including the actual regulatory language. This option should be used when staff generally knows the substance of the 15-day changes, but is not sure exactly how the 15-day language will ultimately be worded. A narrative description will provide time for the exact regulatory language to be worked out after the Board hearing. Of course, the narrative should be general enough to allow staff some flexibility in deciding how the regulatory language will be worded.

Three examples of this document are appended to this memorandum (the headings of the example documents differ in some respects; in the future, the standard format set forth above should be used).

Example 1 is from recent amendments to consumer product and related regulations. Here the 15-day change document begins by using **bold double underline** to show the actual text of the 15-day changes. This is the basic Option #1 approach. However, the very last

paragraph uses the Option #2 approach, by providing a narrative description of some of the 15-day changes for which regulatory language had not yet been developed. This illustrates how it is possible to combine Options #1 and #2 in a single document.

Example 2 is an excerpt from the document used in the adoption of the cleaner burning gasoline regulations. It uses the narrative form, but is intended to be almost as precise as the actual regulatory text.

Example 3 is an excerpt from the document used for amendments to the cleaner burning gasoline regulations. It consists of a narrative summary with an explanation of the rationale for the changes, followed by the entire regulatory text with the suggested modifications highlighted. Here the text was technical and time constraints meant that the amendments needed to be adopted as quickly as possible. Preparation of the complete modified text by the Board hearing enabled the distribution of the 15-day notice shortly after the Board hearing.

Situations where you do not need to use this written format. The purpose of using the standard format is to assure that the suggested 15-day changes are clearly identified for the Board and the public. There may be situations where using this format will be confusing or is inappropriate for some other reason. As you can see from the above examples, there is some flexibility on how suggested changes in a particular rulemaking should be identified. If staff feels that the 15-day changes for a particular Board item should be presented differently, please discuss this with the attorney assigned to the item.

There may be situations where it is not feasible to prepare a written document for distribution at the Board hearing. For example, there may be insufficient time to prepare a written document due to last minute negotiations with affected parties. If preparing a document is not feasible in a particular case, don't do it. Instead, staff should simply describe the suggested changes orally at the Board hearing. However, if it is feasible to prepare a written document, the Office of Legal Affairs strongly encourages doing so because it can avoid later ambiguity and disagreements about exactly what staff proposed and the Board approved.

II. Referring to the "15-day change" document in the Resolution.

As noted above, the formal adoption of regulations or amendments with "15-day changes" must be preceded by a supplemental 15-day period for comment on the proposed changes. For many years, the ARB has handled this by having the Board *"approve"* the modified regulatory proposal in the Resolution, with directions to the Executive Officer to *"adopt"* the modified regulatory text after making the modifications available for a 15-day comment period.

This terminology is necessary because the term "adopt" means that the ARB is taking final administrative action establishing the regulatory language. When 15-day changes are proposed, it would not be appropriate for the Board to "adopt" the regulations at the Board hearing, because the 15-day comment period would be meaningless if the Board had already taken final administrative action on the day of the Board hearing. The 15-day comment would also be meaningless if the Board were to simply direct the Executive Officer to "adopt" the approved modified language in the future, regardless of the points made by the commenters during the 15-day comment period. Therefore, the Resolution gives the Executive Officer the options of adoption, adoption with appropriate further modifications, or bringing the item back to the Board. The Resolution format described below is consistent with this longstanding practice.

When the Board approves a regulatory action with 15-day changes to the original proposal, the Resolution should normally state that the Board is approving the regulations set forth in *Attachment A* (which will be the version of the proposed regulations that is set forth in the Staff Report: Initial Statement of Reasons), with the changes identified in the separate 15-day change document described above. If there are no attachments other than the originally proposed regulation text and the 15-day change document, the 15-day change document will be identified as *Attachment B*. If there are other attachments — typically ARB test procedures or other ARB documents that are incorporated by reference in the regulations and are also being approved — the 15-day change document will normally be the last lettered attachment.

To implement this approach, the following two paragraphs should be included in Resolutions where there are 15-day changes (and no incorporated documents):

> NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to sections **[cite the sections that are being adopted or amended]** Title 17 **[or 13]**, California Code of Regulations, as set forth in Attachment A hereto, with the modifications described in Attachment B hereto;
>
> BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making them available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as appropriate in light of the

comments received, and shall present the amendments to the Board for further consideration if he determines that this is warranted after review of the comments.

Sometimes the Board approves regulatory amendments with changes that are in addition to, or in replacement of, the changes identified in the staff's 15-day changes document. How these additional changes will be identified is determined on a case-by-case basis. Typically they are either incorporated into the body of the resolution, or are set forth in an additional attachment that follows the staff's 15-day changes document. In these cases, the first resolution paragraph set forth above would supplemented at the end by either "and with the additional modifications set forth on Attachment C hereto" or "and with the following additional modifications: xxxx."

Example 4 shows how narrative text can be added to the Resolution to identify modifications made the Board apart from the staff's 15-day changes document. *Example 5* shows how an additional attachment can be referenced in the Resolution to identify additional modifications. The actual drafting may have to be done after the Board hearing, based on oral characterizations at the hearing that are as precise as possible.

III. Creating a one-page sheet which is attached to the Resolution and is entitled "Identification of Attachments to the Board Resolution"

The text of the Resolution should be immediately followed by a one-page sheet (with no page number or header) entitled "Identification of Attachments to the Board Resolution". Use of this sheet will eliminate any uncertainty about what each of the attachments are, while avoiding the need to physically attach to the Resolution all of the attachments that are referred to in the Resolution (the sheet may be followed by the text of the Staff's Suggested Changes document — the only document not already available as an attachment to the Staff Report or Technical Support Document). We recommend creating this sheet for *all* Resolutions in which the Board approves new or amended regulations — not just rulemakings in which there are 15-day changes.

Following is an example of how this sheet would appear for a relatively straightforward rulemaking.

Identification of Attachments to the Board Resolution

Attachment A: Proposed amendments to sections **[cite the sections that are being adopted or amended]** , as set forth in Appendix A to the Staff Report: Initial Statement of Reasons.

Attachment B: Staff's Suggested Changes to the Original Proposal (distributed at the Board hearing on **[date]**).

This sheet should be included at the end of the WordPerfect or Word file containing the Resolution when the Resolution is first routed up for approval, so that the sheet always accompanies the Resolution. In addition, we would prefer staff to use the Times New Roman font face, font size 12, to prepare the Resolution and the attachments. Using this standard font in the Resolution (as well as in the hearing notice and the Staff Report: Initial Statement of Reasons) will make it easier for these documents to be edited.

Attached *Examples 6 and 7* show lists from both uncomplicated and complex rulemakings.

FOR CONSIDERATION BY THE AIR RESOURCES BOARD AT THE PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE CONSUMER PRODUCTS, ANTIPERSPIRANT AND DEODORANT, AEROSOL COATINGS REGULATIONS

NOVEMBER 21, 1996

Staff's Suggested Modifications to the Original Proposal

The attachment shows the staff's suggested modifications to the originally proposed amendments. Only those portions containing the suggested modifications are included.

The originally proposed regulatory language is shown in bold underline, and the text to be removed is shown in ~~strikeout~~. The suggested modifications are shown in bold double-underline. All proposed modifications will be made available to the public for a fifteen day comment period.

Suggested Modifications to Implement AB 1849

Amend section 94502(e) of Subchapter 8.5, Article 1, Antiperspirants and Deodorants, Title 17, California Code of Regulations (CCR), to read as follows:

Section 94502(e)..... Notwithstanding the provisions of Section 94502(a), an antiperspirant or deodorant product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale up to three years ~~eighteen months~~ after each of the specified effective dates.

Amend the following sections of Subchapter 8.5, Article 2, Consumer Products, Title 17, CCR, to read as follows:

Section 94507..... Except as provided in Sections 94509(i) and 94510, this article shall apply to any person who sells, supplies, offers for sale, or manufactures consumer products for use in the state of California.

Section 94508(a)(1)... For "Contact Adhesive," "Construction and Panel Adhesive," and "General Purpose Adhesive" only, "~~a~~adhesive" also does not include units of product, less packaging, which weigh more than one pound or consist of more than 16 fluid ounces. This limitation does not apply to aerosol adhesives.

amendments are intended to provide the ARB with an up-to-date picture of the baseline (i.e., 1996 calendar year) perchloroethylene levels in California and the resulting perchloroethylene emissions from these products. The amendments will also require annual updates to the baseline report, which will allow the ARB to track increases or decreases in perchloroethylene content and emissions. New products containing perchloroethylene introduced after the initial baseline reporting year would also be subject to the reporting requirement. The annual reporting will be required for at least five years of sales data (i.e., for calendar years 1996-2000) to provide sufficient time to detect real trends in perchloroethylene emissions from consumer products after this rulemaking and to determine any correlation of these trends with effluent perchloroethylene monitoring data to be collected by the publicly owned treatment works (POTWs; also known as "sanitation districts").

PUBLIC HEARING ON PROPOSED REGULATIONS REGARDING PHASE 2 REFORMULATED GASOLINE AND THE WINTERTIME OXYGENATES PROGRAM

NOVEMBER 21 AND 22, 1991

Staff's Suggested Changes to the Original Regulatory Proposal

I. Phase 2 Reformulated Gasoline Regulations

1. Identification of flat limits, standards to be met on average, and caps.

For the aromatic hydrocarbon content specifications, change the "designated alternative limit" standard for averaging from 20 percent to 25 percent by volume. Change the flat limit from 25 percent to 28 percent by volume. The cap remains at 30 percent by volume.

Sections Affected: Section 2262.7(a), (b), and (c).

For the olefin content specifications, add a "designated alternative limit" standard of 5.0 percent by volume. Change the flat limit from 5.0 percent to 7.0 percent by volume. The cap remains at 10.0 percent by volume. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.4(b), new (c); Section 2264.

For the T90 specifications, add a "designated alternative limit" standard of 300 degrees F, with a restriction that no designated alternative limit could exceed 315 degrees F. Change the flat limit from 300 degrees F. to 310 degrees F. The cap remains at 330 degrees F. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6(b), new (c); Section 2264.

For the T50 specifications, add a "designated alternative limit" standard of 200 degrees F. Keep the flat limit at 210 degrees F. The cap remains at 220 degrees F. "Designated alternative limit" averaging would be treated identically to the

small refiner to comply with the phase 2 reformulated gasoline specifications through refinery processing by January 1, 1998. Additional provisions similar to those in the diesel fuel sulfur content regulation (former section 2255(g), renumbered section 2281(g)) would be included.

Sections Affected: New section 2272.

3. Test Procedures for Evaluating Alternative Specifications for Gasoline.

(a) Change Deltas (tolerance level for the upper bound) from 1 percent for all pollutants to the following:

NOx	2 percent
Mass NMOG	3 percent
g. Ozone/Mi	4 percent
Potency-Weighted Toxics	4 percent
CO	4 percent

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," sections IV., IX.A.

(b) Change relative potencies of toxic air contaminants to reflect revised draft potencies developed by OEHHA:

	Relative Potency	
	Original	Revised
1,3-butadiene	1.0	1.0
benzene	0.21	0.18
formaldehyde	0.17	0.15
acetaldehyde	0.016	0.014

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," section IX.B.3.

(c) Change maximum allowable T90 from 300 degrees F to 330 degrees F. Change maximum allowable T50 from 210 degrees F to 220 degrees F.

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," section I.A.3.

(d) Change the reference fuel specifications to reflect the revisions to the flat limits for aromatic hydrocarbons, olefins, T90 and T50.

follows: "Each gasoline sample and standard is diluted 1:30 with isooctane in an autosampler vial."

Sections Affected: Section 2263(b)

7. Miscellaneous

(a) Correct a drafting error in section 2261(b) by deleting the reference to section 2258 (Oxygen Content of Gasoline in the Wintertime).

II. Wintertime Oxygenates Program

1. Standards for September and October.

(a) Change the regulatory control period for the South Coast Air Basin and Ventura County so that it starts October 1 rather than September 1. This change is premised on a conclusion that these areas are not prone to high ambient concentrations of CO in September; we hope that that EPA will determine in its final rulemaking on control periods that the Los Angeles-Anaheim-Riverside CMSA is not prone to high ambient concentrations of carbon monoxide in September. As modified, the regulation would impose no requirements in September.

(b) Eliminate the special standard for October, so that the 1.8 percent - 2.2 percent by weight oxygen content standard applicable in November through February would also apply in October (starting October 1993).

(c) In order to assure the availability of adequate supplies of oxygenates during the wintertime oxygenate program, revise the RVP regulation to provide a one psi allowance to blends of gasoline containing at least 5 percent ethanol, in October only.

Section Affected: Section 2258(a)(1) and (a)(2); Section 2251.5(a)(3).

2. Compliance at service stations during first 15 days of control period.

Add a new subsection providing that the minimum and maximum oxygen content limits do not apply to a transaction occurring during the first 15 days of the October regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that he or she has made, prior to the transaction, specific arrangements with a gasoline distributor for the delivery of an oxygenated or nonoxygenated gasoline blend

[REMAINING PAGES OMITTED]

Description of Staff's Suggested Modifications to the Original Proposal To Be Presented at the December 14, 1995 Hearing

AMENDMENTS TO THE CaRFG REGULATIONS, INCLUDING AMENDMENTS REGARDING THE DOWNSTREAM BLENDING OF OXYGENATES

The following proposed modifications are listed in the order they appear in the proposed regulation order. Most of the modifications are being suggested as a result of public comments received by the staff in response to the hearing notice and Staff Report.

1. **Definition of "oxygenate blending facility":** The modifications expand the kind of additives that can be added to gasoline or CARBOB at an oxygenate blending facility without making it a production facility or making the blender the "producer" of any portion of the resulting blend. (Title 13, California Code of Regulations, §§ 2260(a)(19.3) and (a)(26)(C).)

2. **Restrictions on adding oxygenates to California gasoline downstream from the refinery:** The originally proposed amendments deleted provisions allowing oxygenates to be added under certain circumstances to California gasoline produced by another entity, on the premise that CARBOB was the only product into which oxygenates should be blended downstream of the refinery. Some refiners have asked that the original approach be maintained, so as not to preclude a refiner from supplying a low- or no-oxygenate gasoline that could be marketed either in that form outside federal RFG areas, or with additional oxygenate added downstream to meet U.S. EPA requirements in federal RFG areas. The modified text would allow oxygenates to be added to downstream California gasoline as long as the gasoline has been reported as an alternative formulation under the predictive model or vehicle testing options, it has not been commingled with other gasoline, and the oxygen content of the gasoline meets the oxygen specification for the alternative formulation both before and after the additional oxygenate is added. (§ 2262.5(d); conforming modification to § 2266.5(a)(1).)

3. **Protocols on application of the "designated alternative limit" (DAL) requirements:** The modifications make clear that protocols may be used to specify how the offsetting requirements for DALs are applied to individual refiners as well as how the notification requirements are applied. The DAL protocol provisions in the CaRFG regulations were patterned after the DAL protocol provisions in the regulation limiting the aromatic hydrocarbon content of diesel fuel—section 2282. The diesel fuel regulation authorizes protocols addressing not only the DAL notification requirements, but also the requirement that within 90 days before or after the start of physical transfer of a final blend of diesel fuel with a "debit" DAL from the refinery, the refiner must complete physical transfer of sufficient quantities of diesel fuel with a "credit" DAL to offset the debit. (§ 2282(d)(5).) When the DAL language in the CaRFG regulations was drafted with separate subsections on offsetting each property subject to averaging, the reference in the protocol provision to the offsetting requirements was inadvertently omitted. As has previously been the case, in order to enter into a protocol the Executive Officer must determine

We expect that market mechanisms may result in the identification of one or more kinds of fungible CARBOBs whose designations allow for blending with more than one oxygenate. This is preferable to incorporating the federal approach of having refiners designate RBOB as "any oxygenate" or "ether only," with default blending assumptions for each designation. That element of the federal regulations does not fit easily into the California regulations because of structural differences between the two programs. The federal regulations make the oxygenate blender responsible for meeting the federal oxygen content standards, including making the choice between the "per-gallon" and averaging compliance options. The amount of oxygenate a refiner designates for its RBOB is relevant only for determining compliance with the federal RFG standards other than oxygen content, and the RBOB can be seen as a base product the oxygen blender uses in meeting the blender's own oxygen content standards. The federal program does not prohibit oxygenate blenders from adding more oxygenate than was specified by the refiner. The California regulations always place the onus on the refiner to identify the necessary oxygen content. Where a refiner uses the predictive model to identify an oxygen content range other than 1.8 - 2.2 wt.%, compliance with the range is integral to assuring that the fully blended gasoline reflects parameters that were modeled. Accordingly, the staff is not proposing modifications on designating CARBOB as "any oxygenate" or "ether only."

7. **Documentation when CARBOB is transferred:** The original proposal includes a requirement that persons transferring CARBOB provide the transferee with a document stating that the CARBOB does not comply with the CaRFG standards without the addition of oxygenate, and identifies the type and amount of oxygenate that must be added. A proposed modification allows pipeline operators to meet the requirement by using standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB are identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB. (§ 2266.5(d).)

8. **Restrictions on blending CARBOB with other products:** The originally proposed amendments prohibit blending CARBOB that has been shipped from a refinery with any other CARBOB, gasoline, blendstock or oxygenate with two exceptions--it can be blended with oxygenate of the type and amount specified by the refiner, and it can be combined with other CARBOB for which the same oxygenate type and amount was specified by the refiner. These provisions are essentially identical to the federal provisions in 40 C.F.R. § 80.78(a)(7). A refiner has commented that it is not practical to completely segregate products when there is a change in service of a gasoline storage tank--for instance a change from "wintertime" CARBOB designated for blending with ethanol to "summertime" gasoline oxygenated with MTBE. Even when the tank is pumped as low as possible, there typically is a residual "heel" of product in the tank. A proposed modification would allow protocols that identify circumstances in which CARBOB may lawfully be combined with California gasoline or with different CARBOB during a changeover in service of a storage tank for a legitimate business reason. We expect that such commingling would be permitted in the same sort of circumstances as are described in U.S. EPA's "Q&As". (§ 2266.5(f).)

Staff's Suggested Modifications Presented at the December 14, 1995 Hearing

PROPOSED REGULATION ORDER

AMENDMENTS TO THE CaRFG REGULATIONS, INCLUDING AMENDMENTS REGARDING THE DOWNSTREAM BLENDING OF OXYGENATES

NOTE: New text originally proposed to be added in this rulemaking is shown in *italics* to show additions and ~~strikeout~~ to show deletions. All subsection headings are shown in ***bold italics***. New language proposed to be added to subsection headings is shown in ***shadowed bold italics***. Modifications to the originally proposed amendments are shown in underline to show additions and ~~shaded strikeout~~ to show deletions.

Adopt and amend portions of section 2260(a) of Title 13, California Code of Regulations, to read as follows:

Section 2260. Definitions.

(a) For the purposes of this article, the following definitions apply:

* * * *

(6.5) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

* * * *

(10) "Final blend" means a distinct quantity of gasoline *or CARBOB* which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

(11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline *or CARBOB* is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution

[REMAINING PAGES OMITTED]

flammable than gasoline and has not resulted in problems more severe than those associated with gasoline in use;

Electric vehicles produce virtually no emissions, and emissions from the production of electricity to fuel electric vehicles may be significantly less than emissions from the production of gasoline to fuel comparable vehicles, depending on the fuel source;

Improper handling of spent lead-acid batteries from electric vehicles could lead to contamination of water by hazardous metals;

State and federal regulations characterize lead acid batteries as hazardous waste and regulate their disposal to protect public health and the environment; therefore, it is expected that batteries used in electric vehicles will be integrated into the strong recycling mechanism currently in place for batteries used in motor vehicles;

Increased use of electric vehicles may result in increased demand for electricity generation; however, production of electricity can be done with less environmental effects than production of petroleum fuels, also the increased demand is not expected to require expansion of production sources because the increase will typically occur at night when existing generating sources are not operated at peak capacity;

There are no feasible mitigation measures or alternatives available to the Board which would substantially reduce the potential adverse impacts of the proposed standards while at the same time providing the substantial overall public health benefit from the reductions noted herein.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to Title 13, California Code of Regulations, sections 1900, 1904, 1956.8, 1960.1, 1960.1.5, 1960.5, 1965, 2061, 2111, 2112, 2125, 2139, and the documents incorporated by reference therein, as set forth in Attachments A and C through G hereto, approves the adoption of the "Non-Methane Organic Gas Test Procedures" and the "California Test Procedures for Evaluating the Emission Impacts of Substitute Fuels or New Clean Fuels" as set forth in Attachments H and I hereto, and approves the adoption of new Subchapter 8 of Chapter 3, Title 13, California Code of Regulations, sections 2300 through 2345, as set forth in Attachment B hereto, with the modifications to the above regulations and incorporated documents described in Attachment J hereto, and with additional modifications to the clean fuel regulations in Title 13, California Code of Regulations, sections 2300 through 2345 to: (1) delete the provisions requiring gasoline suppliers to distribute minimum assigned volumes of alternative clean fuels; (2) significantly expand the number of retail outlets required to be equipped to dispense alternative clean fuels; (3) include a mechanism that assures that owner/lessors and/or operators of retail outlets required to be equipped to dispense clean fuels: (a) locate clean fuel dispensers conveniently, mark them conspicuously, and maintain them in good working order, (b) provide a training program for attendants on operation of the dispensers and appropriate customer assistance, and (c) assure the posting of the retail prices of clean fuels in a manner that identifies the cost on an energy equivalent basis to a

systems; the permit requirements of the air pollution control districts are expected substantially to mitigate impacts from increased refinery emissions;

Construction of refinery equipment needed for compliance with the regulations approved herein could result in temporary emissions from heavy-duty equipment and disruption of the soil, including the generation of dust;

The regulations approved herein are expected to result in increased shipments of MTBE and ethanol, with concomitant impacts on waterborne and rail traffic; and

There are no feasible mitigation measures or alternatives available to the Board which would further substantially reduce the potential adverse impacts of the proposed regulations while at the same time providing the substantial overall public health benefit from the reductions noted herein.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to Title 13, California Code of Regulations, sections 2250, 2251.5, and 2252, and the adoption of Title 13, California Code of Regulations, sections 2260 through 2272 and the incorporated "California Test Procedures for Evaluating Alternative Specifications for Gasoline," as set forth in Attachments A and B, with the modifications pertaining to Phase 2 reformulated gasoline described in Attachment C hereto, and with the further modifications described in Attachment D hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer: (1) to incorporate into the approved regulations and incorporated documents the modifications described in Attachments C and D hereto, the other modifications approved herein, and such other conforming modifications as may be appropriate; (2) to conduct an informal workshop on the modified language if warranted; and (3) either to adopt the modified regulations, amendments, and new documents after making them available to the public for a supplemental written comment period of 15 days, with such additional modifications as may be appropriate in light of supplemental comments received, or to present the regulations, amendments, and documents to the Board for further consideration if he determines that this is warranted in light of supplemental written comments received.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to apply to the U.S. EPA for a waiver under federal Clean Air Act section 211(m)(3)(A) to the extent necessary to permit the oxygenate regulations approved herein to satisfy the requirements of that Act.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue work on the development of a predictive model that could be used to certify a set of alternative gasoline specifications that could be met to satisfy compliance with the Phase 2 reformulated gasoline requirements, and

For the T50 specifications, add a "designated alternative limit" standard of 200 degrees F. Keep the flat limit at 210 degrees F. The cap remains at 220 degrees F. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6; Section 2264.

2. Start date.

Instead of the originally proposed start date of January 1, 1996, compliance with the flat limits and designated alternative limits will be required starting March 1, 1996, and compliance with the caps will be required starting April 1, 1996.

Sections Affected: Sections 2250, 2251.5, 2252, and 2261.

3. Treatment of small refiners.

Include the modifications pertaining to small refiners as described in the Staff's Suggested Changes," provided that (a) the two-year extension described therein would apply until March 1, 1998 in the case of flat limits and designated alternative limits, and until April 1, 1998 in the case of caps, and (b) if deemed appropriate by the Executive Officer, the "exempt volume" shall be based on data contained in excise tax returns rather than in reports filed with the California Energy Commission.

Sections Affected: Sections 2260 and 2272.

Resolution 96-58

November 21, 1996

Identification of Attachments to the Board Resolution

Attachment A: Proposed amendments to the Consumer Products and Aerosol Coatings Regulations, sections 94508 to 94515, 94517, and 94521, title 17, California Code of Regulations, as set forth in Appendices A and B to the Initial Statement of Reasons.

Attachment B: Staff's Suggested Changes to the Original Proposal (distributed at the Board hearing on November 21, 1996).

Resolution 90-58

September 28, 1990

Identification of Attachments to Resolution

Resolution 90-58 references 10 documents, Attachments A through J. All of the Attachments are identified below. The first 9 documents, Attachments A through I, appear either in the Staff Report or in the Technical Support Document. Therefore they are not separately appended herein. Attachment J, which was presented at the Board hearing, is appended.

Attachment A: Amendments to Title 13, California Code of Regulations, sections 1900, 1904, 1956.8, 1960.1, 1960.1.5, 1960.5, 1965, 2061, 2111, 2112, 2125, and 2139, as set forth in Appendix A of the Staff Report.

Attachment B: Title 13, California Code of Regulations, sections 2300 through 2345, as set forth in Appendix B of the Staff Report.

Attachment C: California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, as set forth in Appendix E-1 of the Technical Support Document.

Attachment D: California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as set forth in Appendix E-2 of the Technical Support Document.

Attachment E: California Exhaust Emission Standards and Test Procedures for 1987 and Subsequent Model Otto-Cycle Heavy-Duty Diesel Engines and Vehicles, as set forth in Appendix E-3 of the Technical Support Document.

Attachment F: California Motor Vehicle Emission Control Label Specifications, as set forth in Appendix E-5 of the Technical Support Document.

Attachment G: Guidelines for Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California, as set forth in Appendix E-6 of the Technical Support Document.

Attachment H: Non-Methane Organic Gas Test Procedures, as set forth in Appendix E-4 of the Technical Support Document.

Attachment I: California Test Procedures for Evaluating the Emission Impacts of Substitute Fuels or New Clean Fuels, as set forth in Appendix C of the Staff Report.

Attachment J: Staff's Suggested Changes to the Proposed Low-Emission Vehicles and Clean Fuels Regulations (8 pages; distributed at the hearing on September 28, 1990).

FOR CONSIDERATION BY THE AIR RESOURCES BOARD AT THE PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE CONSUMER PRODUCTS, ANTIPERSPIRANT AND DEODORANT, AEROSOL COATINGS REGULATIONS

NOVEMBER 21, 1996

Staff's Suggested Modifications to the Original Proposal

The attachment shows the staff's suggested modifications to the originally proposed amendments. Only those portions containing the suggested modifications are included.

The originally proposed regulatory language is shown in **bold underline**, and the text to be removed is shown in ~~strikeout~~. The suggested modifications are shown in **bold double-underline**. All proposed modifications will be made available to the public for a fifteen day comment period.

Suggested Modifications to Implement AB 1849

Amend section 94502(e) of Subchapter 8.5, Article 1, Antiperspirants and Deodorants, Title 17, California Code of Regulations (CCR), to read as follows:

Section 94502(e)..... Notwithstanding the provisions of Section 94502(a), an antiperspirant or deodorant product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale up to **three years** ~~eighteen months~~ after each of the specified effective dates.

Amend the following sections of Subchapter 8.5, Article 2, Consumer Products, Title 17, CCR, to read as follows:

Section 94507..... Except as provided in Sections **94509(i) and** 94510, this article shall apply to any person who sells, supplies, offers for sale, or manufactures consumer products for use in the state of California.

Section 94508(a)(1)... **For "Contact Adhesive," "Construction and Panel Adhesive," and "General Purpose Adhesive" only, "A**~~a~~**dhesive" also does not include units of product, less packaging, which weigh more than one pound or consist of more than 16 fluid ounces. This limitation does not apply to aerosol adhesives.**

Section 94509(a),
"Table of Standards"...

Product Category	1/1/95	Future Effective (Date)
Adhesives		
Aerosol [See 94509(i)]	75	25 (1/1/2002)*

Section 94509(c)..... Notwithstanding the provisions of Section 94509(a), a consumer product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale for up to three years ~~eighteen months~~ after each of the specified effective dates.

Section 94509(d)..... For those consumer products that are registered under FIFRA, the three year ~~eighteen month~~ period provided in subsection (c) shall also begin one year after the date specified in the Table of Standards.

Section 94509(i)..... Requirements for aerosol adhesives. As specified in Health and Safety Code section 41712(h)(2), the 75 percent VOC standard for aerosol adhesives applies to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in sections 94510, 94511, and 94514, no person shall sell, supply, offer for sale, use, or manufacture for sale in California any aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of 75 percent by weight.

Amend section 94522(b) of Subchapter 8.5, Article 3, Aerosol Coating Products, Title 17, California Code of Regulations, to read as follows:

Section 94522(b)..... Sell-Through of Products. Notwithstanding the provisions of section 94522(a), an aerosol coating product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, offered for sale, or applied for up to three years ~~eighteen months~~ after each of the specified effective dates.

Proposed Perchloroethylene Reporting Requirements

Staff intends to propose amendments to section 94513 of the Consumer Products Regulation and section 94524(b) of the Aerosol Coatings Regulation to add a special reporting requirement for consumer products and aerosol coatings products that contain perchloroethylene. These

amendments are intended to provide the ARB with an up-to-date picture of the baseline (i.e., 1996 calendar year) perchloroethylene levels in California and the resulting perchloroethylene emissions from these products. The amendments will also require annual updates to the baseline report, which will allow the ARB to track increases or decreases in perchloroethylene content and emissions. New products containing perchloroethylene introduced after the initial baseline reporting year would also be subject to the reporting requirement. The annual reporting will be required for at least five years of sales data (i.e., for calendar years 1996-2000) to provide sufficient time to detect real trends in perchloroethylene emissions from consumer products after this rulemaking and to determine any correlation of these trends with effluent perchloroethylene monitoring data to be collected by the publicly owned treatment works (POTWs; also known as "sanitation districts").

PUBLIC HEARING ON PROPOSED REGULATIONS REGARDING PHASE 2 REFORMULATED GASOLINE AND THE WINTERTIME OXYGENATES PROGRAM

NOVEMBER 21 AND 22, 1991

Staff's Suggested Changes to the Original Regulatory Proposal

I. Phase 2 Reformulated Gasoline Regulations

1. Identification of flat limits, standards to be met on average, and caps.

For the aromatic hydrocarbon content specifications, change the "designated alternative limit" standard for averaging from 20 percent to 25 percent by volume. Change the flat limit from 25 percent to 28 percent by volume. The cap remains at 30 percent by volume.

Sections Affected: Section 2262.7(a), (b), and (c).

For the olefin content specifications, add a "designated alternative limit" standard of 5.0 percent by volume. Change the flat limit from 5.0 percent to 7.0 percent by volume. The cap remains at 10.0 percent by volume. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.4(b), new (c); Section 2264.

For the T90 specifications, add a "designated alternative limit" standard of 300 degrees F, with a restriction that no designated alternative limit could exceed 315 degrees F. Change the flat limit from 300 degrees F. to 310 degrees F. The cap remains at 330 degrees F. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6(b), new (c); Section 2264.

For the T50 specifications, add a "designated alternative limit" standard of 200 degrees F. Keep the flat limit at 210 degrees F. The cap remains at 220 degrees F. "Designated alternative limit" averaging would be treated identically to the

way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6 (b), new (c); Section 2264.

2. Treatment of Small Refiners.

Small refiners would be provided with a two-year extension for meeting the gasoline specifications for sulfur content, olefins, T90 and T50 until January 1, 1998, subject to the following conditions.

Small refiners would be defined as they are in the regulation on diesel fuel aromatic hydrocarbon content (former 13 Cal. Code Regs. section 2256(b)(19), current section 2282(b)(19)), except that the maximum refinery crude oil capacity would be 55,000 bpsd instead of 50,000 bpsd:

> "Small refiner" means any refiner who owns or operates a refinery in California that:
> (A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;
> (B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and
> (C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

During the extension, only an amount of the small refiner's annual gasoline production (excluding the volume from oxygenates) up to its "exempt volume" would be exempt from the identified specifications. The small refiner's "exempt volume" would be equivalent to the average of the three highest annual production volumes of motor vehicle gasoline reported for the small refiner's California refinery(ies) in the period 1987 to 1990, inclusive, to the California Energy Commission as required by the Petroleum Industry Information Reporting Act of 1980 (Public Resources Code Sections 25350 et seq.). This is also similar to the treatment in the diesel aromatic hydrocarbon regulation.

The small refiner's extension would apply only if the small refiner has demonstrated to the Executive Officer's satisfaction that it is making good faith efforts to construct additional refinery equipment, either at the small refiner's refinery or in a cooperative agreement with one or more other small refiners, in accordance with a schedule which is reasonably likely to enable the

small refiner to comply with the phase 2 reformulated gasoline specifications through refinery processing by January 1, 1998. Additional provisions similar to those in the diesel fuel sulfur content regulation (former section 2255(g), renumbered section 2281(g)) would be included.

Sections Affected: New section 2272.

3. Test Procedures for Evaluating Alternative Specifications for Gasoline.

(a) Change Deltas (tolerance level for the upper bound) from 1 percent for all pollutants to the following:

NOx	2 percent
Mass NMOG	3 percent
g. Ozone/Mi	4 percent
Potency-Weighted Toxics	4 percent
CO	4 percent

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," sections IV., IX.A.

(b) Change relative potencies of toxic air contaminants to reflect revised draft potencies developed by OEHHA:

	Relative Potency	
	Original	Revised
1,3-butadiene	1.0	1.0
benzene	0.21	0.18
formaldehyde	0.17	0.15
acetaldehyde	0.016	0.014

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," section IX.B.3.

(c) Change maximum allowable T90 from 300 degrees F to 330 degrees F. Change maximum allowable T50 from 210 degrees F to 220 degrees F.

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," section I.A.3.

(d) Change the reference fuel specifications to reflect the revisions to the flat limits for aromatic hydrocarbons, olefins, T90 and T50.

Sections Affected: "Test Procedures for Evaluating Alternative Specifications for Gasoline," section I.C.2.

4. Benzene averaging: generation and use of credits.

Delete special provisions for generation and use of benzene credits; instead provide for averaging of benzene to be done in the same way as averaging for sulfur and aromatic hydrocarbons in section 2264(c) and (d).

Sections Affected: Section 2264(e).

5. Sampling Procedures.

Revise the sampling methodology in section 2296 so that it applies more generally to motor vehicle fuel sampling. Various provisions would be clarified and simplified, but there would be no substantive changes. A cooling bath would only be required where compliance with the RVP, T90 and T50 standards is being determined.

Sections Affected: Section 2253(a); 2296

6. Test Methods.

Change reference to olefin content test method from ASTM D 1319-88 to D 1319-89. Change reference to oxygen content test method from ASTM D 4815-88 to D 4815-89. Change reference to T90 and T50 test method from ASTM D 86-82 to D 86-90.

Modify provisions on determining oxygen content in the same manner as the modifications to the wintertime oxygenate regulations described in section II.4. below.

In the referenced test method ARB MLD 116 (set forth in Appendix 5 of the TSD):

(a) Add IO PID lamp energy of IO.0 eV. (Sec. 5.2)

(b) Clarify that the correction factor for the PID is the ratio of the concentrations of o-xylene as determined from the FID and PID sequels. (Sec. 6.2.2)

(c) Change the dilution ratio for isooctane and clarify that both the gasoline sample and standard are to be diluted in the same ratio (Section 5.1) as

follows: "Each gasoline sample and standard is diluted 1:30 with isooctane in an autosampler vial."

Sections Affected: Section 2263(b)

7. Miscellaneous

(a) Correct a drafting error in section 2261(b) by deleting the reference to section 2258 (Oxygen Content of Gasoline in the Wintertime).

II. Wintertime Oxygenates Program

1. Standards for September and October.

(a) Change the regulatory control period for the South Coast Air Basin and Ventura County so that it starts October 1 rather than September 1. This change is premised on a conclusion that these areas are not prone to high ambient concentrations of CO in September; we hope that that EPA will determine in its final rulemaking on control periods that the Los Angeles-Anaheim-Riverside CMSA is not prone to high ambient concentrations of carbon monoxide in September. As modified, the regulation would impose no requirements in September.

(b) Eliminate the special standard for October, so that the 1.8 percent - 2.2 percent by weight oxygen content standard applicable in November through February would also apply in October (starting October 1993).

(c) In order to assure the availability of adequate supplies of oxygenates during the wintertime oxygenate program, revise the RVP regulation to provide a one psi allowance to blends of gasoline containing at least 5 percent ethanol, in October only.

Section Affected: Section 2258(a)(1) and (a)(2); Section 2251.5(a)(3).

2. Compliance at service stations during first 15 days of control period.

Add a new subsection providing that the minimum and maximum oxygen content limits do not apply to a transaction occurring during the first 15 days of the October regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that he or she has made, prior to the transaction, specific arrangements with a gasoline distributor for the delivery of an oxygenated or nonoxygenated gasoline blend

[REMAINING PAGES OMITTED]

Description of Staff's Suggested Modifications to the Original Proposal To Be Presented at the December 14, 1995 Hearing

AMENDMENTS TO THE CaRFG REGULATIONS, INCLUDING AMENDMENTS REGARDING THE DOWNSTREAM BLENDING OF OXYGENATES

The following proposed modifications are listed in the order they appear in the proposed regulation order. Most of the modifications are being suggested as a result of public comments received by the staff in response to the hearing notice and Staff Report.

1. **Definition of "oxygenate blending facility":** The modifications expand the kind of additives that can be added to gasoline or CARBOB at an oxygenate blending facility without making it a production facility or making the blender the "producer" of any portion of the resulting blend. (Title 13, California Code of Regulations, §§ 2260(a)(19.3) and (a)(26)(C).)

2. **Restrictions on adding oxygenates to California gasoline downstream from the refinery:** The originally proposed amendments deleted provisions allowing oxygenates to be added under certain circumstances to California gasoline produced by another entity, on the premise that CARBOB was the only product into which oxygenates should be blended downstream of the refinery. Some refiners have asked that the original approach be maintained, so as not to preclude a refiner from supplying a low- or no-oxygenate gasoline that could be marketed either in that form outside federal RFG areas, or with additional oxygenate added downstream to meet U.S. EPA requirements in federal RFG areas. The modified text would allow oxygenates to be added to downstream California gasoline as long as the gasoline has been reported as an alternative formulation under the predictive model or vehicle testing options, it has not been commingled with other gasoline, and the oxygen content of the gasoline meets the oxygen specification for the alternative formulation both before and after the additional oxygenate is added. (§ 2262.5(d); conforming modification to § 2266.5(a)(1).)

3. **Protocols on application of the "designated alternative limit" (DAL) requirements:** The modifications make clear that protocols may be used to specify how the offsetting requirements for DALs are applied to individual refiners as well as how the notification requirements are applied. The DAL protocol provisions in the CaRFG regulations were patterned after the DAL protocol provisions in the regulation limiting the aromatic hydrocarbon content of diesel fuel—section 2282. The diesel fuel regulation authorizes protocols addressing not only the DAL notification requirements, but also the requirement that within 90 days before or after the start of physical transfer of a final blend of diesel fuel with a "debit" DAL from the refinery, the refiner must complete physical transfer of sufficient quantities of diesel fuel with a "credit" DAL to offset the debit. (§ 2282(d)(5).) When the DAL language in the CaRFG regulations was drafted with separate subsections on offsetting each property subject to averaging, the reference in the protocol provision to the offsetting requirements was inadvertently omitted. As has previously been the case, in order to enter into a protocol the Executive Officer must determine

that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of the regulation. (§ 2264(a)(4).)

4. **Changing from one predictive model (PM) alternative formulation to another:** The originally proposed amendments create an exception from the requirement that a producer is not permitted to switch from one PM alternative formulation to another PM alternative formulation if there are outstanding deficits for any property being averaged. The exception applies where the only change is that a PM flat limit is changed to the equivalent PM averaging limit for one or more properties.

The suggested modifications would revise the proposed exception and add another limited exception. The revision to the originally proposed exception would explicitly provide that the refiner may change the PM flat limits for more than one property to PM averaging limits if there are no changes to the PM alternative specifications for the remaining properties and the new PM alternative formulation meets the predictive model criteria. The new exception allows the refiner to switch one PM averaging limit to a PM flat limit, if there are no outstanding debits for that averaging limit, there are no changes to the specifications for any other properties, and the revised PM alternative formulation meets the predictive model criteria. The staff has concluded that these narrowly crafted exceptions will not result in adverse emissions impacts. (§2265(c)(2).)

5. **Use of a representative oxygenate in determining whether CARBOB complies with the CaRFG standards.** In order to determine whether CARBOB supplied from a refinery meets the CaRFG standards, the appropriate volume and type of oxygenate is added to the CARBOB before its properties are analyzed. The original proposal includes a requirement that the oxygenate added be representative of the oxygenate the refiner reasonably expects will be subsequently added at the oxygenate blending facility. This requirement is needed because different batches of a given oxygenate such as ethanol or MTBE can vary in ways that can have a significant impact on the properties of the oxygenated gasoline blend. The modifications add an additional requirement that a refiner producing CARBOB must enter into a protocol setting forth how the representativeness of the oxygenate will be determined. This will help assure that the refiner's actions to determine representativeness are reasonable and appropriate. (§ 2266.5(a)(2).)

6. **Determining whether CARBOB complies with the CaRFG standards when more than one oxygenate is designated:** The originally proposed amendments provide that where the refiner has identified a range of amounts for the designated oxygenate, the smallest volume designated is to be used in determining the properties and volume of the CARBOB for purposes of compliance with the CaRFG standards. It is appropriate for the regulation to also specify how oxygenate will be added in determining compliance when more than one oxygenate has been specified, because some oxygenates require greater volumes than others to achieve a given weight percentage of oxygen. Thus a proposed modification provides that where the refiner has designated more than one oxygenate for the CARBOB, the properties and volume of the CARBOB will be determined by adding the oxygenate with the smallest designated volume. (§ 2266(a)(2)&(3).)

We expect that market mechanisms may result in the identification of one or more kinds of fungible CARBOBs whose designations allow for blending with more than one oxygenate. This is preferable to incorporating the federal approach of having refiners designate RBOB as "any oxygenate" or "ether only," with default blending assumptions for each designation. That element of the federal regulations does not fit easily into the California regulations because of structural differences between the two programs. The federal regulations make the oxygenate blender responsible for meeting the federal oxygen content standards, including making the choice between the "per-gallon" and averaging compliance options. The amount of oxygenate a refiner designates for its RBOB is relevant only for determining compliance with the federal RFG standards other than oxygen content, and the RBOB can be seen as a base product the oxygen blender uses in meeting the blender's own oxygen content standards. The federal program does not prohibit oxygenate blenders from adding more oxygenate than was specified by the refiner. The California regulations always place the onus on the refiner to identify the necessary oxygen content. Where a refiner uses the predictive model to identify an oxygen content range other than 1.8 - 2.2 wt.%, compliance with the range is integral to assuring that the fully blended gasoline reflects parameters that were modeled. Accordingly, the staff is not proposing modifications on designating CARBOB as "any oxygenate" or "ether only."

7. **Documentation when CARBOB is transferred:** The original proposal includes a requirement that persons transferring CARBOB provide the transferee with a document stating that the CARBOB does not comply with the CaRFG standards without the addition of oxygenate, and identifies the type and amount of oxygenate that must be added. A proposed modification allows pipeline operators to meet the requirement by using standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB are identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB. (§ 2266.5(d).)

8. **Restrictions on blending CARBOB with other products:** The originally proposed amendments prohibit blending CARBOB that has been shipped from a refinery with any other CARBOB, gasoline, blendstock or oxygenate with two exceptions--it can be blended with oxygenate of the type and amount specified by the refiner, and it can be combined with other CARBOB for which the same oxygenate type and amount was specified by the refiner. These provisions are essentially identical to the federal provisions in 40 C.F.R. § 80.78(a)(7). A refiner has commented that it is not practical to completely segregate products when there is a change in service of a gasoline storage tank--for instance a change from "wintertime" CARBOB designated for blending with ethanol to "summertime" gasoline oxygenated with MTBE. Even when the tank is pumped as low as possible, there typically is a residual "heel" of product in the tank. A proposed modification would allow protocols that identify circumstances in which CARBOB may lawfully be combined with California gasoline or with different CARBOB during a changeover in service of a storage tank for a legitimate business reason. We expect that such commingling would be permitted in the same sort of circumstances as are described in U.S. EPA's "Q&As". (§ 2266.5(f).)

9. **Downstream blending of California gasoline with nonoxygenate blendstocks:** Consistent with the federal RFG approach, the originally proposed amendments prohibit persons from blending nonoxygenate blendstocks into California gasoline that has already been shipped from the refinery, unless the person can demonstrate that the blendstocks meet all the CaRFG standards without regard to the properties of the gasoline into which the blendstocks are added. An exception is provided for adding deposit control additives, and protocols are authorized to allow transmix to be blended into CaRFG under certain circumstances.

We are proposing several modifications. First, the reference to deposit control additives would be deleted because they are not a blendstock covered by the basic prohibition (and are not mentioned in the corresponding federal regulation, 40 C.F.R. §80.78(a)(5).) Second, we are proposing that an exception be made for adding vapor recovery condensate into California gasoline; such condensate typically will meet or be close to the CaRFG standards and blending it into CaRFG is the most reasonable disposition of it. Third, we propose allowing protocols for transmix blending when alternatives are not "practical" instead of not "practicable." Finally, we propose an exception for adding nonoxygenate blendstock to California gasoline that exceeds one or more of the cap limits, where the person adding the blendstock obtains the prior approval of the Executive Officer based on a demonstration that the blending is a reasonable means of bringing the gasoline into compliance with the cap limits. This sort of remedial action will likely be needed when there is no readily available complying gasoline or blendstock that could be used to bring the off-spec gasoline into compliance. (§ 2266.5(i).)

Staff's Suggested Modifications Presented at the December 14, 1995 Hearing

PROPOSED REGULATION ORDER

AMENDMENTS TO THE CaRFG REGULATIONS, INCLUDING AMENDMENTS REGARDING THE DOWNSTREAM BLENDING OF OXYGENATES

NOTE: New text originally proposed to be added in this rulemaking is shown in *italics* to show additions and ~~strikeout~~ to show deletions. All subsection headings are shown in ***bold italics***. New language proposed to be added to subsection headings is shown in ***shadowed bold italics***. Modifications to the originally proposed amendments are shown in underline to show additions and ~~shaded strikeout~~ to show deletions.

Adopt and amend portions of section 2260(a) of Title 13, California Code of Regulations, to read as follows:

Section 2260. Definitions.

(a) For the purposes of this article, the following definitions apply:

* * * *

(6.5) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

* * * *

(10) "Final blend" means a distinct quantity of gasoline *or CARBOB* which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

(11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline *or CARBOB* is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution

[REMAINING PAGES OMITTED]

flammable than gasoline and has not resulted in problems more severe than those associated with gasoline in use;

Electric vehicles produce virtually no emissions, and emissions from the production of electricity to fuel electric vehicles may be significantly less than emissions from the production of gasoline to fuel comparable vehicles, depending on the fuel source;

Improper handling of spent lead-acid batteries from electric vehicles could lead to contamination of water by hazardous metals;

State and federal regulations characterize lead acid batteries as hazardous waste and regulate their disposal to protect public health and the environment; therefore, it is expected that batteries used in electric vehicles will be integrated into the strong recycling mechanism currently in place for batteries used in motor vehicles;

Increased use of electric vehicles may result in increased demand for electricity generation; however, production of electricity can be done with less environmental effects than production of petroleum fuels, also the increased demand is not expected to require expansion of production sources because the increase will typically occur at night when existing generating sources are not operated at peak capacity;

There are no feasible mitigation measures or alternatives available to the Board which would substantially reduce the potential adverse impacts of the proposed standards while at the same time providing the substantial overall public health benefit from the reductions noted herein.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to Title 13, California Code of Regulations, sections 1900, 1904, 1956.8, 1960.1, 1960.1.5, 1960.5, 1965, 2061, 2111, 2112, 2125, 2139, and the documents incorporated by reference therein, as set forth in Attachments A and C through G hereto, approves the adoption of the "Non-Methane Organic Gas Test Procedures" and the "California Test Procedures for Evaluating the Emission Impacts of Substitute Fuels or New Clean Fuels" as set forth in Attachments H and I hereto, and approves the adoption of new Subchapter 8 of Chapter 3, Title 13, California Code of Regulations, sections 2300 through 2345, as set forth in Attachment B hereto, with the modifications to the above regulations and incorporated documents described in Attachment J hereto, and with additional modifications to the clean fuel regulations in Title 13, California Code of Regulations, sections 2300 through 2345 to: (1) delete the provisions requiring gasoline suppliers to distribute minimum assigned volumes of alternative clean fuels; (2) significantly expand the number of retail outlets required to be equipped to dispense alternative clean fuels; (3) include a mechanism that assures that owner/lessors and/or operators of retail outlets required to be equipped to dispense clean fuels: (a) locate clean fuel dispensers conveniently, mark them conspicuously, and maintain them in good working order, (b) provide a training program for attendants on operation of the dispensers and appropriate customer assistance, and (c) assure the posting of the retail prices of clean fuels in a manner that identifies the cost on an energy equivalent basis to a

gallon of gasoline; (4) require that gasoline suppliers demonstrate a capability to supply or assure the supply of adequate quantities of alternative clean fuels other than CNG and electricity; and (5) revise the definition of major gasoline supplier so that it covers persons with a California refinery crude oil capacity of 55,000 rather than 50,000 barrels per stream day.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer: (1) to incorporate into the approved regulations and incorporated documents the modifications described in Attachment J hereto, the other modifications approved herein, and such other conforming modifications as may be appropriate; (2) to conduct an informal workshop on the modified language if warranted; and (3) either to adopt the modified regulations, amendments, and new documents after making them available to the public for a supplemental written comment period of 15 days, with such additional modifications as may be appropriate in light of supplemental comments received, or to present the regulations, amendments, and documents to the Board for further consideration if he determines that this is warranted in light of supplemental written comments received.

BE IT FURTHER RESOLVED, that the Executive Officer is directed to report to the Board by the Spring of 1992, and thereafter at least biennially, on the status of implementation of the program approved herein, identifying any significant problems and proposing any appropriate regulatory modifications; the regulated public and other interested parties shall be consulted in the preparation of such reports and the public shall be provided an opportunity to make oral and written comments to the Board in conjunction with the reports.

BE IT FURTHER RESOLVED, that the Executive Officer is directed to monitor on an ongoing basis the pricing practices of wholesalers and retailers of motor vehicle fuel to determine how alternative clean fuels are being priced in comparison to gasoline, and to report the findings to the Board periodically.

BE IT FURTHER RESOLVED, that the Executive Officer is directed to continue to evaluate regulatory mechanisms for assuring that clean fuels are distributed in a manner which achieves the maximum air quality benefits from low-emission vehicles certified while operating on alternative clean fuels, and to report back to the Board on suggested approaches to achieve this objective.

BE IT FURTHER RESOLVED, that the Board hereby determines that the regulations pertaining to motor vehicle emissions approved herein, in conjunction with the rest of the California motor vehicle emissions regulations, will in the aggregate be at least as protective of public health and welfare than applicable federal standards, that such regulations are necessary to meet compelling and extraordinary conditions in California, and that such regulations are not inconsistent with section 202(a) of the federal Clean Air Act.

BE IT FURTHER RESOLVED, that the Executive Officer shall forward the amended motor vehicle exhaust regulations to the Administrator of the Environmental

systems; the permit requirements of the air pollution control districts are expected substantially to mitigate impacts from increased refinery emissions;

Construction of refinery equipment needed for compliance with the regulations approved herein could result in temporary emissions from heavy-duty equipment and disruption of the soil, including the generation of dust;

The regulations approved herein are expected to result in increased shipments of MTBE and ethanol, with concomitant impacts on waterborne and rail traffic; and

There are no feasible mitigation measures or alternatives available to the Board which would further substantially reduce the potential adverse impacts of the proposed regulations while at the same time providing the substantial overall public health benefit from the reductions noted herein.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to Title 13, California Code of Regulations, sections 2250, 2251.5, and 2252, and the adoption of Title 13, California Code of Regulations, sections 2260 through 2272 and the incorporated "California Test Procedures for Evaluating Alternative Specifications for Gasoline," as set forth in Attachments A and B, with the modifications pertaining to Phase 2 reformulated gasoline described in Attachment C hereto, and with the further modifications described in Attachment D hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer: (1) to incorporate into the approved regulations and incorporated documents the modifications described in Attachments C and D hereto, the other modifications approved herein, and such other conforming modifications as may be appropriate; (2) to conduct an informal workshop on the modified language if warranted; and (3) either to adopt the modified regulations, amendments, and new documents after making them available to the public for a supplemental written comment period of 15 days, with such additional modifications as may be appropriate in light of supplemental comments received, or to present the regulations, amendments, and documents to the Board for further consideration if he determines that this is warranted in light of supplemental written comments received.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to apply to the U.S. EPA for a waiver under federal Clean Air Act section 211(m)(3)(A) to the extent necessary to permit the oxygenate regulations approved herein to satisfy the requirements of that Act.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue work on the development of a predictive model that could be used to certify a set of alternative gasoline specifications that could be met to satisfy compliance with the Phase 2 reformulated gasoline requirements, and

Attachment D

PUBLIC HEARING ON PROPOSED REGULATIONS REGARDING PHASE 2 REFORMULATED GASOLINE AND THE WINTERTIME OXYGENATES PROGRAM

NOVEMBER 21 AND 22, 1991

Additional Modifications Approved by the Board

The Board approved the proposed regulations regarding Phase 2 reformulated gasoline with various modifications to the original proposal. Most of the modifications are set forth in the "Staff's Suggested Changes to the Original Regulatory Proposal," distributed at the hearing on November 21, 1991 and appended as Attachment C to Resolution 91-54. In addition, the Board approved the further modifications identified below. In the case of Item 1, "Identification of flat limits, standards to be met on average, and caps," the modifications set forth below replace the modifications in the Staff's Suggested Changes.

1. Identification of flat limits, standards to be met on average, and caps.

For the aromatic hydrocarbon content specifications, change the "designated alternative limit" standard for averaging from 20 percent to 22 percent by volume. The flat limit remains as originally proposed at 25 percent by volume, and the cap remains at 30 percent by volume.

Sections Affected: Section 2262.7(a), (b), and (c).

For the olefin content specifications, add a "designated alternative limit" standard of 4.0 percent by volume. Change the flat limit from 5.0 percent to 6.0 percent by volume. The cap remains at 10.0 percent by volume. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.4(b), new (c) and (d); Section 2264.

For the T90 specifications, add a "designated alternative limit" standard of 290 degrees F, with a restriction that no designated alternative limit could exceed 310 degrees F. The flat limit remains as originally proposed at 300 degrees F, and the cap remains at 330 degrees F. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6; Section 2264.

For the T50 specifications, add a "designated alternative limit" standard of 200 degrees F. Keep the flat limit at 210 degrees F. The cap remains at 220 degrees F. "Designated alternative limit" averaging would be treated identically to the way it is treated for aromatic hydrocarbon content and sulfur content.

Sections Affected: Section 2262.6; Section 2264.

2. Start date.

Instead of the originally proposed start date of January 1, 1996, compliance with the flat limits and designated alternative limits will be required starting March 1, 1996, and compliance with the caps will be required starting April 1, 1996.

Sections Affected: Sections 2250, 2251.5, 2252, and 2261.

3. Treatment of small refiners.

Include the modifications pertaining to small refiners as described in the Staff's Suggested Changes," provided that (a) the two-year extension described therein would apply until March 1, 1998 in the case of flat limits and designated alternative limits, and until April 1, 1998 in the case of caps, and (b) if deemed appropriate by the Executive Officer, the "exempt volume" shall be based on data contained in excise tax returns rather than in reports filed with the California Energy Commission.

Sections Affected: Sections 2260 and 2272.

TEMPLATE

EXECUTIVE ORDER

State of California
AIR RESOURCES BOARD

Executive Order G-03-**[xxx assigned by Legal]**

Relating to [Title of Rulemaking.....]

WHEREAS, on **[Hearing Date]**, the Air Resources Board (the Board or ARB) conducted a hearing to consider the proposed **[adoption] [amendment]** of **section[s]** _____ **[and_____]**, title**[s]** _____ **[and_____]**, California Code of Regulations;

WHEREAS, following the public hearing, the Board adopted Resolution [____-____], in which the Board approved **section[s]**_____ **[and_____]**, title**[s]** _____ **[and_____]**, California Code of Regulations, as set forth in Attachment A thereto;

WHEREAS, Resolution [____-____], directed the Executive Officer to adopt the regulations, after making the modified regulatory language **[and additional supporting documents and information]** available for public comment for a period of 15 days, "provided that the Executive Officer shall consider such written comments **[and additional supporting documents and information]** 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 he determines that this is warranted";

WHEREAS, the approved regulations, with the changes to the originally proposed text clearly indicated, have been make available for public comment for a period of 15 days in accordance with the provisions of Title 1, California Code of Regulations, section 44; and

WHEREAS, **[the written comments received during this 15 day period have been considered by the Executive Officer and do not require [modification or] reconsideration by the Board of the approved regulations] [no written comments were received during this 15 day period];**

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution [____-____] **are incorporated herein.**

IT IS FURTHER ORDERED, that **section[s]**_____ **[and_____]**, title**[s]** _____ **[and_____]**, California Code of Regulations, are adopted as set forth in **[Attachment A to Resolution [-], [Attachment I to this Order].**

Executed this _____ day of_____, 2003, at Sacramento, California.

_____
Catherine Witherspoon
Executive Officer

TAB 9

EXAMPLE

EXECUTIVE ORDER

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER G-02-026

Relating to the Adoption of an Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations

WHEREAS, on July 27, 2001, the Air Resources Board (the Board or ARB) conducted a public hearing to consider the adoption of an Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations;

WHEREAS, following the public hearing on July 27, 2001, the Board adopted Resolution 01-28, in which the Board approved section 93105, title 17, California Code of Regulations (CCR), as set forth in Attachment A thereto, with the modifications set forth in Attachment B thereto;

WHEREAS, in Resolution 01-28, the Board directed the Executive Officer to incorporate into the approved regulation the modifications described above, with such other conforming modifications as may be appropriate, and then to adopt the modified regulation after making the modified regulatory language available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modified text 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 regulation to the Board for further consideration if he determines that this is warranted;

WHEREAS, on December 19, 2001, the modified regulations, reflecting the amendments approved by the Board and other appropriate conforming modifications, were made available for a public comment period of at least 15 days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of section 44, title 1, CCR;

WHEREAS, a number of written comments were received during the supplemental 15-day comment period and those comments, as well as the comments received during the initial 45-day comment period, have been considered by the Executive Officer;

WHEREAS the responses to comments on the environmental issues associated with the proposed regulation, which are contained in the Final Statement of Reasons for this regulatory action, have been approved by the Executive Officer as provided in section 60007, title 17, CCR; and

WHEREAS, Attachment 1 hereto contains the regulatory text of section 93105, title 17, CCR, reflecting the modified regulatory text made available for the supplemental 15-day comment period.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 01-28 are incorporated by reference herein, including the findings pursuant to the California Environmental Quality Act set forth on pages 4 and 5 of Resolution 01-28.

IT IS FURTHER ORDERED, in accordance with Resolution 01-28, that the adoption of section 93105, title 17, CCR, is hereby adopted as set forth in Attachment 1 hereto.

Executed this 6th day of June, 2001, at Sacramento, California.

Michael P. Kenny
Executive Officer

Attachment

CALIFORNIA AIR RESOURCES BOARD

Boilerplate Findings for Executive Orders

Executive Officer Action:

WHEREAS, the Board, in Resolution [## - ##], directed the Executive Officer to adopt the regulations, after making them available to the public for a period of at least 15 days, provided that the Executive Officer shall consider such written comments regarding the changes in the regulations as originally proposed 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 he determined that this was warranted;

WHEREAS, the approved regulations and a detailed description of the changes were made available for public comment from [period of availability], with the changes to the originally proposed text clearly indicated;

WHEREAS, the approved regulations were available for public comment for a period of 15 days in accordance with the provisions of title 1, California Code of Regulations, section 44, with the changes to the originally proposed text clearly indicated;

WHEREAS, no written comments were received during this 15-day comment period;

WHEREAS, the written comments received during this 15-day period have been considered by the Executive Officer and do not require modification nor reconsideration by the Board of the approved regulations;

WHEREAS, the comments received during this 15-day period were considered by the Executive Officer, and the Executive Officer made modifications the regulations and circulated the modified text for public comment from [period of availability] with the changes to the originally proposed text clearly indicated;

WHEREAS, the written comments received during the subsequent 15-day comment period have been considered by the Executive Officer and do not require modification nor reconsideration by the Board of the approved regulations;

WHEREAS, in implementing the Board's direction in Resolution [## - ##], it was necessary and appropriate to include in the modified text a new section #### pertaining to *****;

WHEREAS, additional modifications the approved regulations were made in response to the Office of Administrative Law Decision of Disapproval were available for public comment for a period of 15 days with the changes to the originally proposed text clearly indicated;

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution [## - ##] are incorporated by reference herein.

IT IS FURTHER ORDERED, in accordance with Resolution [## - ##], that section(s) *****, title [13/17], California Code of Regulations, are adopted as set forth in Attachment 1 hereto.

WHEREAS, the Board declared that adoption of the amendments as emergency regulations is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as specified in 43013.2(c) of the Health and Safety Code;

WHEREAS, in Resolution [## - ##], the Board directed the Executive Officer to adopt the approved amendments to section(s), title [13/17], California Code of Regulations, as emergency regulations, with such conforming modifications as may be appropriate, and submit them to the Office of Administrative Law in accordance with Government Code section 11346.1;

WHEREAS, on [date], the Office of Administrative Law (OAL) approved the regulation as an emergency measure, which became effective immediately;

WHEREAS, I hereby certify that the provisions set forth in sections 11346.4 through 11346.8, inclusive, of the Government Code for formal adoption of the regulations were complied with prior to expiration of the 120-day effective period of the emergency regulatory action.

TAB 10

TEMPLATE

FINAL STATEMENT OF REASONS

State of California
AIR RESOURCES BOARD

Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Response

PUBLIC HEARING TO CONSIDER THE . . .

Public Hearing Date: **[date of hearing]**
Agenda Item No.: [__-__-__]

I. GENERAL

The Staff Report: Initial Statement of Reasons for Rulemaking ("staff report"), **[entitled "xxxx"]**, released **[date notice was published]**, is incorporated by reference herein.

[Description of Board action]

[Description of and rationale for any modification to original proposal, i.e., 15-day changes, not separately discussed in the summary of comments and agency response].

[Statement re-material incorporated by reference in regulation, if any][1]

The Board has determined that this regulatory action **[will result in a mandate to [identify the local agencies or school districts affected by the mandate]. However, the Board finds that that these costs are not reimbursable pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, because . . .] [will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code].**[2]

---

[1] Section 11346.9(a)(1) of the Government Code (APA) provides that the FSOR shall contain an "update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical, or empirical study, report, or similar document on which the agency is relying in proposing the adoption, amendment, or repeal of a regulation that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period, the agency shall comply with Section 11347.1". If material has been incorporated by reference in the regulation, the FSOR must demonstrate "that it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the CCR." The FSOR must also indicate how copies of the documents can be obtained, i.e., from a commonly known source or from ARB, with instructions regarding requesting copies of the document, or if from some other source, identify that source and provide the information necessary to obtain a copy of the document. [Title 1, CCR, sec. 20]

[2] Section 11346.9(a)(2) of the Government Code (APA) provides that the FSOR shall contain a "determination as to whether adoption, amendment, or repeal of the regulation imposes a mandate on local agencies or school districts. If the determination is that adoption, amendment, or repeal of the regulation would impose a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7(commencing with Section 17500) of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding".

[Statement re small business alternatives.][3]

The Board has further determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.[4]

II. SUMMARY OF COMMENTS AND AGENCY RESPONSE[5]

[List commenters: those who submitted written comments during the 45-day comment period, (2) those who submitted written comments or who testified at the public hearing, and (3) those who submitted written comments on the modifications or additional supporting information during the 15-day comment period [s]. This listing should be used to introduce abbreviations, e.g., SCAQMD for South Coast Air Quality Management District, which will be used to identify the commenter in the comment summaries.]

1. Comment: **[Summary of objection or recommendation. (AAA]**

   Agency Response: **[Explanation how regulation was changed to accommodate objection or recommendation or why comment was rejected.]**

---

[3] Section 11346.9(a)(5) of the Government Code (APA) provides that the FSOR shall contain an "explanation setting forth the reasons for rejecting any proposed alternative that would lessen the adverse economic impact on small businesses".

[4] Section 11346.9(a)(4) of the Government Code (APA) provides that the FSOR shall contain a "determination with supporting information that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation".

[5] Section 11346.9(a)(3) of the Government Code (APA) provides that the FSOR shall contain a "summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the propose action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action. The agency may aggregate and summarize repetitive or irrelevant comments as a group, and may respond to repetitive comments or summarily dismiss irrelevant comments as a group. For the purpose of this paragraph, a comment is "irrelevant" if it is not specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action".

EXAMPLE

FINAL STATEMENT OF REASONS

State of California
Environmental Protection Agency

AIR RESOURCES BOARD

PROPOSAL TO CONSIDER THE ADOPTION OF AMENDMENTS TO THE LOW-EMISSION VEHICLE REGULATIONS, INCLUDING PARTICULATE STANDARDS FOR GASOLINE VEHICLES, MORE STRINGENT EMISSION STANDARDS FOR FUEL-FIRED HEATERS, AND ADMINISTRATIVE REVISIONS

FINAL STATEMENT OF REASONS

July 2002

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER THE ADOPTION OF AMENDMENTS TO THE LOW-EMISSION VEHICLE REGULATIONS, INCLUDING PARTICULATE STANDARDS FOR GASOLINE VEHICLES, MORE STRINGENT EMISSION STANDARDS FOR FUEL-FIRED HEATERS, AND ADMINISTRATIVE REVISIONS

Public Hearing Date: November 15, 2001
Agenda Item No.: 01-9-2

I. GENERAL

In this rulemaking, the Air Resources Board (ARB or Board) is adopting amendments to the California Low-Emission Vehicle II (LEV II) regulations. These amendments include the following primary elements:

Requiring Otto-cycle (gasoline) vehicles to meet particulate matter standards that currently only apply to diesel vehicles;

Requiring bi-fuel, flexible fuel or dual-fuel vehicles to certify to super-ultra-low-emission vehicle (SULEV) standards when operating on both gasoline and the alternative fuel in order to qualify for partial zero-emission vehicle credits; and

Incorporation of a number of administrative amendments to ease the certification effort for manufacturers.

The rulemaking was initiated by the September 28, 2001 publication of a notice for a November 15, 2001 public hearing to consider the proposed amendments. A Staff Report: Initial Statement of Reasons (the Staff Report) was also made available for public review and comment starting September 28, 2001. The Staff Report, which is incorporated by reference herein, describes the rationale for the proposal. The text of the proposed amendments to title 13, California Code of Regulations (CCR) sections 1960.1, 1960.5, 1961 and 1962 was included as an Appendix to the Staff Report. These documents were also posted on the ARB's Internet site for the rulemaking at: http://www.arb.ca.gov/regact/levii01/levii01.htm. Also posted on the internet site were the proposed amendments to five ARB documents which are or were proposed to be incorporated by reference in the regulations listed above:

"California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," which is incorporated by reference in section 1961(d);

"California Non-Methane Organic Gas Test Procedures," which is incorporated by reference in the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles";

"Guidelines for Certification of 1983 and Subsequent Model-Year Federally-Certified Light-Duty Motor Vehicles for Sale in California," which is incorporated by reference in section 1960.5(c);

"California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes" (the ZEV Standards and Test Procedures), which is incorporated in section 1962(h); and

"Guidelines for Certification of 2003 and Subsequent Model-Year Federally-Certified Light-Duty Motor Vehicles for Sale in California," a proposed new document to be incorporated by reference in section 1960.5(c).

On November 15, 2001, the Board conducted the public hearing, at which it received written and oral comments. At the conclusion of the hearing, the Board adopted Resolution 01-51, in which it approved the originally proposed amendments with various editorial corrections and two significant modifications: (1) eliminating the proposed amendments to the standards applicable to the fuel-fired heaters used in zero-emission vehicles, and (2) amending the new fleet average non-methane organic gas (NMOG) phase-in requirements for vehicles produced by independent low volume manufacturers – manufacturers selling between 4,500 and 10,000 vehicles in California each year. These modifications had been suggested by staff in a 17-page document entitled "Staff's Suggested Modifications to the Original Proposal" that was distributed at the hearing and was Attachment G to the Resolution. Attachment G showed excerpts of the originally proposed amendments to the regulations and incorporated documents, with the text of all suggested modifications clearly identified. In accordance with section 11346.8 of the Government Code, the Resolution directed the Executive Officer to incorporate the modifications into the proposed regulatory text, with such other conforming modifications as may be appropriate, and to make the modified text available for a supplemental comment period of at least 15 days. He was then directed either to adopt the amendments with such additional modifications as may be appropriate in light of the comments received, or to present the regulations to the Board for further consideration if warranted in light of the comments.

The text of all of the modifications to the originally proposed amendments to the regulations and incorporated documents was made available for a supplemental 15-day comment period by issuance of a "Notice of Public Availability of Modified Text." This Notice, and a copy of the Resolution 01-51 and the Attachment G document entitled "Staff's Suggested Modifications to the Original Proposal," were mailed on

December 14, 2001 to all parties identified in section 44(a), title 1, CCR, and to other persons generally interested in the ARB's rulemaking concerning motor vehicle emission standards.[1] The "Notice of Public Availability of Modified Text" gave the name, telephone and fax number of the ARB contact person from whom interested parties could obtain the complete texts of the two incorporated documents which would be affected by the modifications to the original proposal, with all of the modifications clearly indicated.

Two comments were received during the supplemental comment period that ran from December 14, 2001 to January 4, 2002. After considering these comments, the Executive Officer issued Executive Order G-01-002, adopting the amendments to CCR, title 13, and amending or adopting the incorporated documents.[2]

This Final Statement of Reasons (FSOR) updates the Staff Report by identifying and providing the rationale for the modifications made to the originally proposed regulatory text. The FSOR also contains a summary of the comments the Board received on the

---

[1] Due to a staff mix-up, the version of the modified text that was made available with the 15-day notice was a slightly different earlier draft rather than the exact modified text that had been made available at the hearing and approved by the Board. The Final Regulation Order reflects all of the modifications the Board had approved. The only differences between the finally adopted text and the version distributed with the 15-day notice are:

(1) in the Final Regulation Order, § 1961(b)(1)(A): "or independent low volume manufacturer" is added to the last line before the table to make clear that the table does not apply to such manufacturers. This simply makes the text consistent with the amendments to § 1961(b)(1)(D), which set forth special new phase-in requirements for independent low volume manufacturers. The same change is made to Section I.E.2.1.I in the incorporated California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles."

(2) In § 1961(b)(1)(E): a heading is added to the subsection; the same modification is made to Section I.E.2.1.5 of the incorporated Test Procedures.

(3) In § 1961(b)(2), second line: "and" is changed to "or" to improve syntax; the same change is made to Section I.E.2.2.

(4) In § 1962, subsection (e) is relettered subsection (h) to reflect amendments approved by the Office of Administrative Law May 24, 2002.

(5) In § 1962(h), a change updates the reference to the amended incorporated document; since the proposal has always included amendments to that incorporated document, it has been evident to the public that the ARB has intended for the last amended version of document to be the document incorporated by reference in the regulation.

[2] The finally adopted amendments to the ZEV Standards and Test Procedures also included adding additional text in Section C.2.5 ("Changes in Small Volume, Independent Low Volume, and Intermediate Volume Manufacturer Status") to track identical language that had been added in amendments approved by OAL June 24, 2002 (OAL Regulation Action No. 02-0510-03S) to section 1962, title 13, CCR, the regulation that incorporates by reference the ZEV Standards and Test Procedures. Since the amendments to section 1962 have already been adopted and approved by OAL, adding identical language to the incorporated document to assure consistency is a nonsubstantial change.

proposed regulatory amendments during the formal rulemaking process and the ARB's responses to those comments.

Incorporation of Test Procedures and Federal Regulations. The five amended and new test procedures are incorporated by reference in CCR, title 13, sections 1960.5(c), 1961(d) and 1962(e). These test procedure documents in turn incorporate certification test procedures adopted by the U.S. Environmental Protection Agency (U.S. EPA) and contained in 40 Code of Federal Regulations (CFR) Part 86.

California Code of Regulations, title 13, sections 1960.5(c), 1961(d) and 1962(e) identify the incorporated ARB documents by title and date. The ARB documents are readily available from the ARB upon request and were made available in the context of this rulemaking in the manner specified in Government Code section 11346.5(b). The CFR is published by the Office of the Federal Registrar, National Archives and Records Administration, and is therefore reasonably available to the affected public from a commonly known source.

The test procedures are incorporated by reference because it would be impractical to print them in the CCR. Existing ARB administrative practice has been to have the test procedures incorporated by reference rather than printed in the CCR as these procedures are highly technical and complex. They include the "nuts and bolts" engineering protocols required for certification of motor vehicles and have a very limited audience. Because the ARB has never printed complete test procedures in the CCR, the affected public is accustomed to the incorporation format. The ARB's test procedures as a whole are extensive and it would be both cumbersome and expensive to print these lengthy, technically complex procedures with a limited audience in the CCR. Printing portions of the ARB's test procedures that are incorporated by reference would be unnecessarily confusing to the affected public.

The test procedures incorporate portions of the CFR because the ARB requirements are substantially based on the federal emission regulations. Manufacturers typically certify vehicles to a version of the federal emission standards and test procedures which has been modified by state requirements. Incorporation of the federal regulations by reference makes it easier for manufacturers to know when the two sets of regulations are identical and when they differ. Each of the incorporated CFR provisions are identified by date in the ARB test procedure documents.

Fiscal Impacts. The Board has determined that this regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other non-discretionary costs or savings to local agencies.

Consideration of Alternatives. The amendments proposed in this rulemaking were the subject of discussions involving staff and the affected motor vehicle manufacturers.

The Board has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

II. MODIFICATIONS TO THE ORIGINAL PROPOSAL

A. RETENTION OF CURRENT FUEL-FIRED HEATER REQUIREMENTS

The ARB's standard for ZEVs provides that the use of a fuel-fired heater on a vehicle does not preclude certification of the vehicle as a ZEV if (i) the fuel-fired heater cannot be operated at ambient temperatures above 40°F, (ii) the heater is demonstrated to have zero fuel evaporative emissions under any and all possible operational modes and conditions, and (iii) the emissions of any pollutant from the fuel-fired heater when operated at an ambient temperature between 68°F and 86°F do not exceed the emission standard for that pollutant for a ULEV. These requirements were adopted in the original LEV I rulemaking in 1990. At that time, the ULEV standards were the next most stringent set of standards after the ZEV standard.

With the adoption of the LEV II regulations in 1998-1999, the most stringent set of emission standards after the ZEV standard will be the SULEV standard, which is 75 percent cleaner than the ULEV standard. In this rulemaking, staff had originally proposed an amendment under which the fuel-fired heater on a ZEV would have to meet the SULEV standards when operating at 40°F, to ensure the lowest possible emissions from ZEVs and to better reflect actual operating temperatures, consistent with the ZEV concept. To ascertain the viability of this proposal, staff provided industry with the revised fuel-fired heater proposed requirements and requested their comments prior to issuing the 45-day notice. At that time, the only comment received was a request that the proposed implementation date – the 2003 model year – be delayed until the 2005 model year. This change was incorporated into the final proposal. Subsequent to the 45-day notice, however, industry informed staff via informal comments[3] that it was neither technologically nor economically feasible to meet the new requirements in that timeframe. Since staff had relied on industry's initial positive assessment, it had not performed tests of its own. Consequently, staff recommended that this element of the rulemaking be eliminated, and the Board concurred. This issue will be revisited at such time that staff can perform additional tests and work with suppliers to evaluate further emission reductions from these devices.

B. REVISIONS TO THE FLEET AVERAGE NMOG REQUIREMENTS FOR INDEPENDENT LOW VOLUME MANUFACTURERS

[3] The informal comments received were via telephone conversations and a meeting with automobile and fuel-fired heater industry representatives. The comments and information presented to staff during these communications were never submitted to the Board as part of the formal rulemaking.

One of the regulations being amended in this rulemaking – section 1961, title 13, CCR – establishes the fleet average NMOG requirements for manufacturers of passenger cars and light-duty trucks (LDTs). All manufacturers other than small volume manufacturers (SVMs) are subject to the annually declining fleet average NMOG requirements in section 1961(b)(1)(A), title 13, CCR. SVMs are subject to a less stringent fleet average NMOG requirement – 0.075 gram per mile (g/mi) for 2001 and subsequent model passenger cars and LDTs from 3751-5750 lbs. loaded vehicle weight (LVW), 0.100 g/mi for LDTs having a LVW of 5751 lbs. or more in the 2001-2006 model years, and 0.075 g/mi for such LDTs in the 2007 and subsequent model years.

In a comment letter, Porsche Cars of North America, Inc. (Porsche) requested modifications to the new fleet average NMOG phase-in requirements for independent low volume manufacturers as defined in section 1900(b)(21), title 13, CCR. This is a new manufacturer category created by the recent 2001 ZEV Amendments, and includes manufacturers selling between 4,500 and 10,000 vehicles in California each year, including the sales of any other manufacturer having 10 percent or more common ownership. Porsche pointed out that it is one of very few remaining small manufacturers that has not been acquired wholly or in part by a large volume manufacturer. Independent niche manufacturers like Porsche have only a few car lines, and this makes meeting the fleet average NMOG standard by averaging across model lines difficult. A manufacturer owned in whole or part by another manufacturer typically is able to acquire credits from the other manufacturer. But this is not the case for an independent manufacturer that does not have such ownership ties.

Porsche's projections are that it will lose its SVM status effective with the 2005 model year, based on 1991-2001 model year sales exceeding the 4,500 SVM threshold (See section 1961(b)(1)(C)2., title 13 CCR). At that time, Porsche would be subject to a 2005 model year fleet average NMOG requirement of 0.049 g/mi for passenger cars and 0.076 g/mi for LDTs, forcing it to produce nothing but vehicles meeting the ULEV standard if it has only three car lines at that time. But while its sales are expected to exceed the SVM threshold and could conceivable approach 10,000 vehicles per year by the end of the decade, Porsche would still be a very small manufacturer relative to all other companies competing in the California market when ownership ties are taken into account.

In light of these considerations and the unique status of independent low volume manufacturers, the Board modified the proposed amendments to add a provision in section 1961(b)(1)(D), title 13, CCR on applicability of the fleet average NMOG requirements to this category of manufacturers. Under the modification, an independent low volume manufacturer is subject to the same fleet average NMOG requirements as an SVM during the 2001-2006 model years. In the 2007 and subsequent model years, an independent low volume manufacturer will be subject to a more stringent fleet average NMOG requirement of 0.060 g/mi for passenger cars and LDTs from 3751-5750 lbs. LVW, and 0.065 g/mi for LDTs having a LVW of 5751 lbs. or more. This appropriately positions the requirements for an independent low volume manufacturer in-between the requirements for an SVM and a large volume manufacturer.

III. SUMMARY OF COMMENTS AND AGENCY RESPONSE

The Board received three written comments during the 45-day comment period prior to and/or at the November 15, 2001 hearing, one from Porsche and two from the Alliance of Automotive Manufacturers (the Alliance). At the hearing, the Board received oral testimony from the Alliance and Ford Motor Company.

Two e-mail messages were transmitted during the supplemental comment period to the e-mail address set up for this rulemaking. Neither message pertained to the modified regulatory language that was made available for comment, nor to the rulemaking more generally. One message, from the driver on an electric vehicle, opposed reducing the requirement for more low and zero-emission vehicles in the state. This was likely directed to the ARB's 2001 zero-emission vehicle amendments, which were originally transmitted to the Office of Administrative Law December 7, 2001. The other email message supported revisions to Assembly Bill 71 as it pertains to the use of gasoline hybrid vehicles in "high occupancy vehicle" lanes on freeways. These comments are accordingly not addressed in this FSOR.

A. COMMENTS PRESENTED PRIOR TO OR AT THE HEARING

1. **Comment:** It will be extremely difficult for an independent low volume manufacturer to meet current fleet average NMOG requirements due to a very limited number of test groups produced by the manufacturer. Therefore, the ARB is requested to adopt new fleet average non-methane organic gas fleet average requirements specifically for independent low volume manufacturers to reflect their limited number of test groups. (Porsche)

Agency Response: We agree with the commenter, and accordingly have modified the fleet average NMOG requirements applicable to independent low volume manufacturers as described in Section II above.

2. **Comment:** California phases in the LEV II exhaust emission standards at a rate of 25/50/75/100% during the 2004-2007 model years. Federally, both the exhaust and evaporative emission standards (Tier 2) are phased in using the identical schedule. The lone exception to this phase-in schedule is California's evaporative emission standards adopted as part of the LEV II rulemaking. These are phased in at a rate of 40/80/100% in the three model years during the 2004-2006 model years. This is inconsistent with the recent effort between ARB and U.S. EPA to harmonize and simplify the evaporative emission test procedure. Changing the LEV II evaporative emissions phase-in schedule to make it identical to the four-year federal Tier 2 and California LEV II exhaust emissions schedules would substantially reduce the cost and complexity of complying with the near-zero evaporative emission standards and would increase the uniformity of California and Federal regulations. (Alliance and Ford)

Agency Response: This rulemaking is solely directed towards the exhaust emission standards and test procedures in sections 1960.1 and 961, title 13, CCR, and the AB 965 program in section 1960. The commenters are asking for a substantial modification to the phase-in schedule for the evaporative emission standards in section 1976(b)(1)(F), Note 3 to table. As such, we do not believe that the requested modification is within the scope of the notice as required by Government Code section 11346.8(c). The ARB will address the issue of LEV II evaporative emissions phase-in schedule separately from this rulemaking.

Internal Review Procedures
FINAL STATEMENT OF REASONS
(FSOR)

The Final Statement of Reasons is to be submitted with all the Final Rulemaking Documents to LEGAL and must be included on the disk with all the other final rulemaking documents. The Final Rulemaking Package Documents require a pink routing/approval slip and should be routed for approval as follows:

1. Division Chief
2. Assigned Regulations Coordinator
3. BARCU Manager
4. Assigned Attorney
5. General Counsel
6. Appropriate Deputy
7. Executive Officer
8. and back to the Regulations Coordinator for submittal to OAL.

The Regulations Coordinators assembles the **final rulemaking package** for filing with OAL. The regulatory documents are then posted on ARB's Regulation Activity Website. OAL now has 30 working days to review the rulemaking package for approval.

FINAL STATEMENT OF REASONS CHECKLIST		
	Govt. Code Section	**Requirement**
	11346.9(a)(1)	An update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical, or empirical study, report, or similar document on which the agency is relying in proposing the adoption, amendment, or repeal of a regulation that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period, the agency shall comply with Section 11347.1.
	11346.9(a)(2)	A determination as to whether adoption, amendment, or repeal of the regulation imposes a mandate on local agencies or school districts. If the determination is that adoption, amendment, or repeal of the regulation would impose a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7(commencing with Section 17500) of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding.
	11346.9(a)(3)	A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the propose action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action. The agency may aggregate and summarize repetitive or irrelevant comments as a group, and may respond to repetitive comments or summarily dismiss irrelevant comments as a group. For the purpose of this paragraph, a comment is "irrelevant" if it is not specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action.

Revised 01/03

FINAL STATEMENT OF REASONS CHECKLIST		
	11346.9(a)(4)	A determination with supporting information that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.
	11346.9(a)(5)	An explanation setting forth the reasons for rejecting any proposed alternative that would lessen the adverse economic impact on small businesses.

NOTE

The contents of the initial statement of reasons do not need to be reprinted in the final statement of reasons.

TAB 11

Cal/EPA Summary (For Internal Use Only)
Face Sheet: Std. Form 400
Final Regulation Order
Table of Contents

RULEMAKING FILE

TABLE OF CONTENTS

<Title of Regulation>

1. Request for Early Effective Date (if applicable)
2. Updated Informative Digest
3. **Executive Order G-XX-XXX and Attachment (Final Regulation Order)**
4. *Resolution 05-XX and Attachment (Initial Proposed Text)*
5. Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Responses and Addendum to the Final Statement of Reasons
6. **Notice of Decision and Response to Significant Environmental Issues**
7. **Certification of Mailing** *and 45-Day Public Hearing Notice*
8. *Economic and Fiscal Impact Statement*
9. *Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Including Text of Proposed Regulations and Incorporated Documents*
10. *Transcript of the Hearing*
11. *Copies of Slide Presentation*
12. *Written Comments Received During the 45-Day Notice Period*
13. **Certificate of Mailing:** *Notice of Public Availability of Modified Text and Text Public Availability Period*
14. *Written Comments Received During the 15-Day Notice Period*
15. References (DUE WITH NOTICE PACKAGE TO LEGAL)

- Items in **Bold** ~ Legal is Responsible
- Items in *Italics* ~ Legal already has
- Items Underlined ~ Staff needs to prepare to legal for filing final rulemaking record with OAL

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-		

For use by Office of Administrative Law (OAL) only

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY | AGENCY FILE NUMBER *(If any)*

A. PUBLICATION OF NOTICE *(Complete for publication in Notice Register)*

1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER ( ) | FAX NUMBER *(Optional)* ( )

OAL USE ONLY | ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE

B. SUBMISSION OF REGULATIONS *(Complete when submitting regulations)*

1a. SUBJECT OF REGULATION(S) | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) *(Including title 26, if toxics-related)*

SECTION(S) AFFECTED *(List all section number(s) individually)* | ADOPT | AMEND

TITLE(S) | REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) ☐ Emergency (Gov. Code, § 11346.1(b)) ☐ Emergency Readopt (Gov. Code, § 11346.1(h)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Other (specify) _____

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE *(Cal. Code Regs. title 1, §§ 44 and 45)*

5. EFFECTIVE DATE OF REGULATORY CHANGES *(Gov. Code, §§ 11343.4, 11346.1(d))*
☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other *(Specify)* _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

7. CONTACT PERSON | TELEPHONE NUMBER ( ) | FAX NUMBER *(Optional)* ( ) | E-MAIL ADDRESS *(Optional)*

8. *I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.*

SIGNATURE OF AGENCY HEAD OR DESIGNEE | DATE

TYPED NAME AND TITLE OF SIGNATORY

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number for the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6815.

TEMPLATE

** FOR INTERNAL USE ONLY **

CAL/EPA SUMMARY

[SHORT TITLE FOR THE PROPOSED REGULATORY ACTION]

1. **Title/Sections Affected:** [Identify].
2. **Summary of Action/Regulations:**

   The pre-existing regulations.

   The amendments.
3. **Critical Issues and Arguments:**
4. **Related Federal, State or Local Requirements:**
5. **Interested Constituencies:**
6. **Cost to Industry and Others:**
7. **Effect on Air Quality and Other Resources:**
8. **Enforcement Mechanisms:**
9. **Potential for Litigation:**
10. **Economic Impacts Assessments:**
11. **Evaluation of Alternatives:**
12. **Environmental Analysis:**
13. **Contact Persons:**

    Legal questions:

    Technical questions:

Revised 01/03

EXAMPLE

FOR INTERNAL USE ONLY

Cal/EPA Summary of Final Rulemaking

ADOPTION OF THE 2003 AMENDMENTS TO THE CALIFORNIA ZERO-EMISSION VEHICLE REGULATION

1. **Title/Sections Affected:** Amendments to title 13, California Code of Regulations (CCR), section 1962 and the incorporated "California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid-Electric Vehicles, in the Passenger Car, Light-Duty Truck, and Medium-Duty Vehicle Classes," and section 1900(b)(19) and (21).

2. **Summary of Action/Regulations:**

Background. The California zero-emission vehicle (ZEV) requirements were initially adopted in 1990, requiring that specified percentages of the passenger cars and lightest light trucks marketed in California by the seven largest auto manufacturers be vehicles with zero emissions. The percentages were 2% for model-years (MYs) 1998-2000, 5% for MYs 2001-2002, and 10% starting in MY 2003, when intermediate-volume manufacturers became subject as well. The program included a marketable credits system.

In 1996 the ARB eliminated the regulatory requirements for MYs 1998-2002, retaining the 10% requirement starting in the 2003 model year. The ARB also entered into Memoranda of Agreement (MOAs) with the seven largest auto manufacturers, in which they agreed to place more than 1,800 advanced-battery electric vehicles (EVs) in California during 1998-2000. Additional amendments in 1998 allowed the large-volume manufacturers to use partial credits of 0.2 or more generated from vehicles with extremely low emissions (called PZEVs) to meet up to 6% of their 10% ZEV requirement. With those amendments, about 22,000 full function EVs would have been needed in MY 2003 to meet a 4% ZEV requirement.

During a biennial review in 2000, a staff-assembled Battery Technology Advisory Battery Panel reported that the near-term incremental costs of battery EVs ranged from $7,500 for "City EVs" to more than $20,000 for freeway capable ZEVs with advanced batteries. In 2001, the Board adopted a new round of amendments reaffirming its commitment to ZEVs but adding mechanisms further reducing by roughly a factor of four the number of pure or "gold" ZEVs needed to comply in the early years, and increasing the credit each PZEV earns in the early years. One mechanism allowed a large manufacturer to meet up to one-half of its 4% gold ZEV requirement with partial credits from PZEVs that have ZEV-enabling advanced technology componentry such as hybrid electric drivetrains and are called AT PZEVs. There were options for measuring the "value" of these vehicles in earning partial ZEV credits, including one that evaluated

the extent to which a hybrid electric vehicle (HEV) has reduced CO_2 emissions, and another that evaluated an HEV's efficiency as measured by fuel economy. It was expected that if manufacturers produced full function battery EVs to comply, about 4500-7500 full function ZEVs would be needed per year in the first five years.

In January 2002, General Motors and DaimlerChrysler filed a lawsuit in federal district court in Fresno, asserting that the provisions pertaining to AT PZEVs that are gasoline hybrids are related to fuel economy standards and accordingly are preempted by the Energy Policy and Conservation Act of 1975 – the law that directed the National Highway Traffic Safety Administration to establish corporate average fuel economy (CAFE) standards. On June 11, 2002, the judge issued a preliminary injunction that prohibits the ARB's Executive Officer from enforcing the 2001 ZEV amendments with respect to the sale of new MY 2003 or 2004 motor vehicles, pending final resolution of the case. The ARB appealed issuance of the preliminary injunction to the U.S. Court of Appeals for the Ninth Circuit.

GM and DaimlerChrysler also filed two lawsuits in Fresno County Superior Court, raising state claims regarding the 2001 amendments and the Executive Officer's implementation. The automakers asserted that the Board had no rational basis for determining that the regulation was cost-effective. They also claimed that the ARB violated CEQA by failing to accept their analysis that the ZEV regulation will actually increase emissions because the higher prices for new cars would slow the replacement of the highest polluting old cars with clean new cars, more than offsetting the benefits from the new vehicles that are marketed.

Toyota was the only major automaker to market a full function "gold" ZEV in MYs 2002 or 2003 – the EV RAV 4. GM and DaimlerChrysler introduced substantial numbers of MY 2002 neighborhood electric vehicles that earned bankable credits with extra multipliers for early introduction. During this period manufacturers also invested major resources in fuel cell vehicle development.

The 2003 Amendments. In March and April 2003, the Board conducted hearings on 2003 amendments proposed by staff. As finally adopted, the amendments delay the start of the percentage ZEV requirements until MY 2005. They also change the methods for awarding credits to hybrid electric AT PZEVs by deleting all references to fuel economy and substituting five credit categories based on the voltage and drive system peak power output.

Manufacturers are given the choice of complying with "base path" percentage ZEV requirements essentially the same as those in the preexisting regulation, or an alternative compliance path. Under the alternative path, a manufacturer that produces its market share of a specified number of fuel cell vehicles during multi-year stages may meet all of its remaining 2% "gold" requirement with AT PZEVs. If all manufacturers followed the alternative path, the total fuel cell ZEV obligations would be 250 in MYs 2005-2008, 2,500 in MYs 2009-2011, 25,000 in MYs 2012-2014, and 50,000 in MYs 2015-2017. One half of these fuel cell vehicle obligations can be met with substantially

higher numbers of new battery EVs or, in MYs 2005 through 2012, the re-lease of existing ZEVs (33 lease years equals one fuel cell ZEV).

Although not part of the regulation, the Board resolved to appoint an Independent Expert Review Panel to report to the Board on the status of ZEV technology development in time for the Board to determine the appropriate regulatory approach on the commercialization of gold ZEVs in the 2009 and subsequent model years.

The ZEV regulation is complex, and the amendments include several other elements as well.

3. Critical Issues and Arguments:

Options eliminating the need for manufacturers to produce additional battery EVs. Numerous advocates of battery EVs opposed creation of the alternative compliance path because it meant that manufacturers would not be mandated to produce battery EVs. Many fervently argued that the continued pursuit of battery EV technology is essential to meeting the state's air quality goals and that the automakers had made insufficient efforts in marketing battery EVs. However, the ARB's battery experts projected that the near-term incremental cost of a full function battery EV is about $17,000 per vehicle and the future incremental cost is not expected to drop below about $7,500 even under high-production scenarios. Due to cost and marketability concerns, the major manufacturers have ceased production of battery EVs and instead are focusing significant research and development resources on fuel cell vehicles. The amended regulation makes it possible for a manufacturer to satisfy its pure ZEV obligation solely through aggressive pursuit of fuel cell commercialization. Finally, as indicated below, the amendments are actually expected to reduce emissions slightly compared to the 2001 regulation because of increased penetration by AT PZEVs and PZEVs.

Requiring increased "floor" levels of fuel cell ZEVs after MY 2008. The staff recommended that the regulation not specify a floor level for fuel cell vehicles under the alternative path after MY 2008. Those levels were "to be determined" after the report of the Independent Expert Review Panel. The Board concluded, however, that aggressive target levels in subsequent years are necessary to assure adequate efforts towards commercialization. Some environmental groups and EV advocates argued that the ramp-up should be steeper than the schedule adopted by the ARB.

4. Related Federal, State, or Local Requirements: The federal motor vehicle emission control program does not include ZEV requirements. New York, Massachusetts and Vermont have adopted the California motor vehicle emission standards for passenger cars and light trucks, including the ZEV requirement, pursuant to section 177 of the federal Clean Air Act. These states are amending their requirements to assure that they remain identical to California's. There are some state and local programs that provide incentives to persons acquiring a ZEV by lease or purchase.

5. **Interested Constituencies**: The primary interested constituencies are motor vehicle manufacturers and dealers, environmental groups, and electric vehicle enthusiasts. There has been high public interest in this rulemaking, and the Board received numerous communications from public officials and organizations supporting the ZEV program.

6. **Cost to Industry and Others**: Given the uncertainty of the compliance strategies the various vehicle manufacturers will use, the staff has estimated manufacturer compliance costs for the amended regulation under three different scenarios. All costs are combined totals for MYs 2005 through 2011.

Under the first scenario, all manufacturers pursue the base path and make maximum use of banked credits to offset the gold portion of the requirement. The 2003 base path is similar in many ways to the regulation as amended in 2001, and results in estimated compliance costs of $815 million to $4,099 million. This represents an estimated savings of $16 million to $1,517 million as compared to the 2001 regulation, primarily due to the increased credit values earned by ZEVs under the 2003 amendments which result in fewer vehicles being required. The wide range for this and the subsequent cost estimates is indicative of the large number of variables involved.

Under the second scenario, all manufacturers pursue the alternative path and use banked credits to offset the entire remainder of the gold and silver requirement. This approach results in estimated compliance costs of $523 million to $902 million compared to having no ZEV program. Savings versus the regulation as amended in 2001 are estimated at $608 million to $4,714 million.

Finally, under the third scenario all manufacturers pursue the alternative path and use banked credits to offset one half of the combined gold and silver requirement. This approach results in estimated compliance costs of $550 million to $929 million compared to no ZEV program, slightly higher than the scenario discussed above. The savings as compared to the 2001 regulation are correspondingly slightly lower at $580 million to $4,687 million.

7. **Effect on Air Quality and Other Resources**: Compared to the preexisting ZEV regulation, we expect that the amendments will result in a net emission benefit of about 0.09 per day reactive organic gases plus oxides of nitrogen (ROG + NOx) in 2010, and 0.21 tons per day in 2020, in the South Coast Air Basin. This is because of the increase in extremely clean PZEVs and AT PZEVs. Compared to having no ZEV program, the amendments are expected to reduce approximately 1.4 and 5.5 tons per day of ROG + NOx in 2010 and 2020 respectively in the South Coast Air Basin.

8. **Enforcement Mechanisms**: A vehicle manufacturer is required to report its production and delivery of ZEVs for the California market. Failure to meet the ZEV requirement or make up the deficit within the specified time period makes the manufacturer liable for a $5000 penalty for every ZEV that should have been marketed.

There may also be injunctive relief against a noncomplying manufacturer, imposing restrictions on certification of the manufacturer's other California vehicles.

9. **Potential for Litigation:** On August 12, 2003, the ARB, DaimlerChrysler, Isuzu, General Motors, and various car dealers announced an agreement bringing to an end the three lawsuits challenging the 2001 ZEV regulation. The manufacturers agreed to dismiss the lawsuits once the 2003 ZEV amendments are approved by OAL. While this has no effect on their ability to file new lawsuits challenging the 2003 amendments, the statements by GM and DaimlerChrysler suggest they are not expecting to file such suits. GM stated that, "the proposed 2003 ZEV regulation provides the flexibility we need to move beyond the litigation."

Comments filed by Sierra Research could be seen as laying the groundwork for a potential lawsuit on some of the same grounds as the earlier suits.

10. **Economic Impacts Assessment:** The Executive Officer has determined that the regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. In accordance with Government Code section 11346.3, the Executive Officer has determined that the regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. As noted above, the amendments will result in a cost savings compared to the preexisting ZEV regulations.

11. **Evaluation of Alternatives:** As noted above, the Board rejected the alternative of not specifying a minimum requirement for fuel cell vehicles after MY 2008. This was due to the Board's strong belief that firm, specific production targets after MY 2008 are essential to incentivize the necessary manufacturer research and development.

During the comment period Air Improvement Resource, Inc. (AIR) submitted a petition for amendment of the ZEV regulation, outlining an alternative approach under which PZEV and AT PZEV vehicles would satisfy the "gold" requirement through MY 2011, the emission performance of conventional vehicles would be improved by extended durability requirements, and flexibility would be increased for manufacturers in generating and using ZEV allowance. This alternative was rejected on the ground that it would abandon the push towards zero emissions that is the foundation of the ZEV program.

The Board ultimately determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

12. **Environmental Impacts**: Apart from the emission impacts discussed in Item 7, the staff analyzed other environmental impacts as well. ZEVs can make significant

positive contributions in other environmental areas. Just as the gasoline refining, marketing, and distribution system results in air pollution emissions, it likewise results in water pollution due to fuel leakage and wastewater discharges, and is a source of hazardous waste. Given the relatively small changes in near term fleet composition as a result of the amendments, staff expects no significant impact in these environmental areas.

13. Contact Persons:

Legal questions: Thomas Jennings, Senior Staff Counsel, (916) 322-2884.

Technical questions: Chuck Shulock, Vehicle Programs Specialist, (916) 322-6964.

TEMPLATE

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(c), the Air Resources Board (ARB) requests that the **[adoption] [amendment] [repeal]** of sections**[s]** _____ **[and** _____**]**, title**[s]** ____ **[and** ____**]**, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. Good cause for this request exists.

[State need for an early effective date.]

[Identify the affected public and explain what steps, if any, have been or will be taken by the ARB, to avoid or minimize any adverse impact of the early effective date.]

Date: _____

_____
[Insert Assigned Attorney's Name]
[Senior Staff Counsel or Staff Counsel]

Revised 01/03

EXAMPLE

REQUEST FOR EARLY EFFECTIVE DATE

ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS

Pursuant to Government Code section 11343.4, the Air Resources Board (ARB) requests that section 93105, title 17, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. Good cause for this request exists.

This Asbestos Air Toxic Control Measure (ATCM) is designed to reduce asbestos emissions from construction, grading, quarrying, and surface mining operations in California. Section 93105(a) specifies the effective date of the ATCM. To be consistent with Health and Safety Code section 39666(d), section 93105(a) provides that "no later than 120 days after the approval of this section by the Office of Administrative Law," each air pollution control and air quality management districts must either implement and enforce the requirements of the ATCM, or must propose their own ATCM for adoption.

It is important to begin reducing asbestos emissions as soon as possible. The ARB would therefore like to insure that the 120-day period starts on the date that OAL approves the ATCM, instead of starting 30 days after the date of OAL approval. Although section 93105(a) provides that the 120-day period begins on the date of OAL "approval," confusion might arise if there is a 30-day gap between OAL "approval" and the formal, operative date of the ATCM. Although lawyers understand such distinctions, not everyone in the regulated community does. Therefore, the ARB is requesting an early effective date to avoid the possibility of confusion on this issue.

Date: June 6. 2002

Robert C. Jenne
Senior Staff Counsel

UPDATED INFORMATIVE DIGEST

Sections Affected: Proposed **[adoption/amendment/repeal]** to title **[13/17]**, California Code of Regulations, section(s) * * *.

11346.5(a)(3) An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills. The informative digest shall include the following:

11346.5(a)(3)(A) A clear and concise summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action.

11346.5(a)(3)(C) A policy statement overview explaining the broad objectives of the regulation and, if appropriate, the specific objectives.

The Updated Informative Digest is simply an update to the "Informative Digest," which was prepared for the 45-day notice.

UPDATED INFORMATIVE DIGEST

ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS

Sections Affected: Adoption of section 93105, title 17, California Code of Regulations (CCR).

Background

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Chapter 1047, Statutes of 1983) and set forth in Health and Safety Code (HSC) sections 39650–39675, requires the ARB to identify and control air toxics in California. The Board identified asbestos as a toxic air contaminant (TAC) in 1986. Asbestos was identified without a Board-specified threshold exposure level.

Following the identification of a substance as a TAC, HSC section 39665 requires the ARB, with participation of the air pollution control and air quality management districts (districts), and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. HSC section 39666(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature. A needs assessment for asbestos was conducted between 1989 and 1990 as part of the ARB's development of the Asbestos ATCM for Asbestos-Containing Serpentine ("Asbestos ATCM"; title 17, California Code of Regulations, section 93106). ARB staff prepared an Initial Statement of Reasons (ISOR) for the Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations that, together with the 1990 needs assessment, serves as the report on the need and appropriate degree of regulation for the ATCM.

Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, HSC section 39666 requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the proposed ATCM, State law also requires assessment of the appropriateness of substitute products or processes.

In 1990, an Asbestos ATCM was adopted by the Board imposing an asbestos limit of five percent for serpentine material for surfacing applications. At the time of the adoption, the Board directed the staff (Resolution 90-27, 1990) to return to the Board at such time that it be deemed necessary to further control emissions of asbestos from existing sources. Since the 1990 adoption of the Asbestos ATCM, additional

information from monitoring and modeling studies has been developed. This information shows a potential for significant exposures and risks for individuals living near unpaved roads surfaced with serpentine material meeting the five percent asbestos limit. In order to address this issue, an amended Asbestos ATCM was adopted by the Board in July 2000 restricting asbestos content of surfacing materials to less than 0.25 percent asbestos.

The air monitoring studies, including those conducted in California and Virginia, have also indicated that activities associated with construction, grading, quarrying, and surface mining in areas known to have naturally-occurring asbestos can result in asbestos concentrations in the air that represent a potential public health hazard. Potential asbestos emissions from these activities have also been a source of public concern. Field observations and air monitoring has also demonstrated that actions taken to control dust emissions from these activities are effective in reducing asbestos emissions. Accordingly, the Board has adopted a new asbestos ATCM to protect public health by minimizing emissions from construction, grading, quarrying, and surface mining operations.

Description of the Regulatory Action

The ATCM is designed to minimize the public's exposure to asbestos by requiring work practices that will minimize dust emissions from activities associated with construction, grading, quarrying and surface mining. Three industry sectors are covered by the adopted ATCM: construction, road construction and maintenance, and quarrying and surface mining. The requirements apply to projects where the area to be disturbed is in an area specified on maps published by the Department of Conservation's (DOC) Division of Mines and Geology showing ultramafic rock units or where ultramafic rock, serpentine, or naturally-occurring asbestos is known to occur, even if not shown on the maps.

The requirements for construction and grading projects are divided into provisions for projects that disturb one acre or less (small construction projects), and those that disturb more than one acre (large construction projects). The requirements for small construction projects include wetting the soil area to be disturbed; wetting, covering, or stabilizing storage piles; limiting vehicle speeds; cleaning equipment before moving it off-site; and cleaning up visible trackout on the paved public road.

Large construction projects are required to obtain an approved dust mitigation plan from the district. The plan must specify measures that will be taken to control emissions of dust and must address specific topics. The topics that must be addressed are dust mitigation measures for the following: track-out prevention and removal, disturbed surface areas and storage piles that will be inactive more than seven days, on-site vehicle traffic, active storage piles, earthmoving activities, off-site transport, post construction stabilization, and air monitoring (if required by the district). The ATCM also requires that no equipment or activities emit dust that is visible crossing the property line.

The requirements for road construction and maintenance include notifying the district before starting the project, wetting the area to be disturbed, restricting traffic speed, and preventing visible trackout on the paved public roadway. These requirements also prohibit the emission of dust that is visible crossing the project boundaries. Emergency road repair is exempted from the pre-notification requirement.

Quarries and surface mines must obtain district approval for an asbestos dust mitigation plan that ensures that certain equipment and processes meet specified opacity requirements, that specific dust mitigation measures are employed, and that visible dust does not pass over the property line. In addition to processing controls, the plan must include air monitoring (if required by the district), trackout control, and control for on-site public roads.

Potentially affected sources can obtain an exemption from the ATCM if a geologic evaluation determines that the area to be disturbed is not likely to contain any ultramafic rock or serpentine. Road construction and maintenance activities can obtain an exemption if the activity is more than a mile from any receptor. Agricultural operations and timber harvesting, except for road and building construction, are exempted from the ATCM. Sand and gravel operations can obtain an exemption from the ATCM for activities associated with the processing and storage of material extracted from alluvial deposits.

The ATCM also contains sections addressing recordkeeping and reporting, test methods, timelines, and definitions. In accordance with Government Code sections 11345.3(c) and 11346.5(9)(11), the ARB's Executive Officer has found that the recordkeeping and reporting requirements of the resolution are necessary for the health, safety, and welfare of the people of the State.

Comparable Federal Regulations

The U.S. EPA has promulgated an Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP); 40 C.F.R. Part 61, Subpart M, sections 61.140 et seq. The Asbestos NESHAP established standards that apply to asbestos mills, roadways constructed with asbestos mine tailings or asbestos-containing waste material, manufacturing operations using asbestos, demolition or renovation where asbestos may be present, spraying of asbestos-containing material, fabrication operations using asbestos, insulating material containing asbestos and disposal of waste from various sources. This regulation covers asbestos-containing manufactured products and waste containing asbestos and does not cover naturally-occurring asbestos material.

The U.S. EPA has promulgated a National Pollutant Discharge Elimination (NPDES) storm water program (Phase I); 40 C.F.R. Part 122, 123, 124 to address water discharges from Industrial, Municipal and Construction activities. Quarries and surface mines are covered under the Industrial section of the NPDES regulation. The Construction section covers construction sites that disturb five acres or more. NPDES

provide that discharges of storm water to waters of the United States from Industrial, Municipal, and Construction projects are effectively prohibited unless the discharge is in compliance with a state issued NPDES permit. The NPDES permit requires all Industrial, Municipal and Construction dischargers to develop and implement a Storm Water Pollution Prevention Plan which specifies Best Management Practices (BMPs) that will prevent all pollutants (including soil) from contacting storm water with the intent of keeping all products of (wind and water) erosion from moving off site into receiving waters. Phase II of NPDES (40 CFR Part 122, Subpart B, Section 122.26 et seq) goes into affect March 10, 2003. Phase II reduces the size of the covered construction activity to one acre. Both Phases of NPDES require BMPs for fugitive dust emissions and trackout control. However, the BMPs do not require that no visible dust leave the property and they allow dry sweeping of trackout areas. The proposed Asbestos ATCM is more stringent in that it requires that no visible dust leave the property and does not allow dry sweeping in any situation.

TEMPLATE

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

Notice of Decision and
Response to Significant Environmental Issues

Item:

Approved by: Resolution [Resolution #]

Adopted by: Executive Order [Executive Order #]
Dated: [Date E/O Signed]_____

Agenda Item No.: [Agenda Item # (from board book toc)]

Public Hearing Date: [Hearing Date]

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental issues pertaining to this item. The staff report identified no adverse environmental effects.

Response: N/A

Certified: _____
XXXXX X. XXXXXX
Regulations Coordinator

Date: _____

Revised 01/03

EXAMPLE

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

Notice of Decision and Response to Significant Environmental Issues

Item:	Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations
Approved By:	Resolution 01-28
Adopted by:	Executive Order G-02-026
Agenda Item:	01-6-7
Public Hearing Date:	July 27,.2001
Issuing Authority:	Air Resources Board

Comment:

The Air Resources Board (Board) received a number of comments asserting that adverse environmental impacts may result from this item. These comments are summarized and responded to in the Final Statement of Reasons for this regulatory item, which is incorporated by reference herein.

Resolution 01-28 (attached) is also incorporated by reference herein. In the Resolution, the Board made various findings pertaining to the potential environmental impacts of the proposed amendments to the Asbestos Airborne Toxic Control Measure. The Board found that no significant adverse environmental impacts should occur from the proposed amendments, with the exception that there may be very small increases in emissions of diesel particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons from heavy-duty diesel vehicles. The Board further found that although these emission increases are extremely small, they could nevertheless constitute an adverse environmental impact. The Resolution identified considerations that override any such adverse impacts.

Response: See above

Certified:

Artavia M. Edwards, Manager
Board Administration & Regulatory
Coordination Unit

Date: 7 June 2002

Rec'd By
Office of the Secretary
JUN - 7 2002
Resources Agency of California