

* * * State regulations require that this notice be mailed to all persons * * *
who submitted written or oral comments during the initial public comment period

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Regulatory Text

**PUBLIC HEARING TO CONSIDER ADOPTION OF THE 2003 AMENDMENTS TO THE
CALIFORNIA ZERO EMISSION VEHICLE REGULATIONS**

Public Hearing Dates: March 27-28 & April 24, 2003
Internet Posting Date of Second Supplemental Notice: October 3, 2003
Public Availability Date for Second Supplemental Notice: October 10, 2003
Last Day for Comment on Second Supplemental Notice: October 27, 2003

This notice announces a second supplemental period in which the public may comment on additional modifications being proposed to the 2003 amendments to the regulations establishing the California Zero Emission Vehicle (ZEV) program. No action by any member of the public is necessary unless the person wishes to comment on the additional modifications.

At a public hearing on March 27-28 and April 24, 2003, the California Air Resources Board (ARB or Board) considered adoption of 2003 amendments to its ZEV regulation in section 1962, title 13, California Code of Regulations (CCR), and an incorporated ZEV test procedures document.

The proposed amendments delay the start of the percentage ZEV requirements from the 2003 model year to the 2005 model year. An important element of the ARB staff's modified proposal is a new mechanism allowing large-volume auto manufacturers to choose one of two compliance paths in the 2005 and subsequent model years. A manufacturer would be permitted to satisfy its ZEV obligations by meeting requirements that are similar to those in the ZEV regulation as amended in 2001. This involves a formula that initially allows a mix of credits from three categories of vehicles – 2 percent from “gold” pure ZEVs, 2 percent from “silver” advanced technology partial ZEV allowance vehicles (AT PZEVs), and 6 percent from “bronze” partial ZEV allowance vehicles (PZEVs). The manufacturer would also have the option of electing a new alternative ZEV compliance path, under which the manufacturer would meet part of its ZEV requirement by producing its sales-weighted market share of approximately 250 fuel cell ZEVs by the 2008 model year. Under this alternative path, the remainder of the manufacturer's ZEV obligations could initially be achieved with a credit mix of 4 percent from AT PZEVs and 6 percent from PZEVs. In response to pending litigation, the proposed amendments eliminated all references to fuel economy and vehicle efficiency. Consequently, the credit structure for ZEVs and AT PZEVs was adjusted to reflect new regulatory incentives and encourage the sustainable commercialization of program vehicles.

The amendments as originally proposed by staff were described in detail in the Staff Report: Initial Statement of Reasons for Proposed Rulemaking released on

January 10, 2003. On March 5, 2003 the staff released suggested modifications to the originally proposed regulatory text. These modifications were described in a March 5, 2003 document entitled "Description and Rationale for Staff's Additional Proposed Modifications to the January 10, 2003 ZEV Regulatory Proposal" (the March 5 Supplemental Staff Report). Both of these documents are available online at the ARB's Internet site for the regulatory documents in this rulemaking – <http://www.arb.ca.gov/regact/zev2003/zev2003.htm> – as is the Resolution described below.

The Board's action. At the conclusion of the April 24, 2003 hearing, the Board adopted Resolution 03-4, which initiated steps towards final adoption of the originally proposed amendments with a number of modifications. The modifications reflected the modified regulatory text that had been suggested by staff in the March 5 Supplemental Staff Report, as well as additional revisions. The Resolution directed the ARB's Executive Officer to incorporate the approved 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. The proposed modified regulatory text, which included a number of conforming modifications developed after the hearing, was made available with a supplemental comment deadline of August 25, 2003. A substantial number of written comments were received by that date.

Second set of modifications being made available. Based on comments received during the supplemental comment period, staff is proposing additional substantive, clarifying and technical modifications to the regulatory texts that are needed to better reflect the underlying intent of the proposal. The substantive modifications include: 1) allowing re-leased battery electric vehicles to be used in the alternative compliance path under specified conditions, 2) making the extended service multiplier applicable to 1997 through 2003 model-year vehicles, 3) adjusting the extended lease provision to require that a lease extension of at least two additional years be offered, and 4) requiring that Type C hybrid electric vehicles have an advanced energy storage system to receive an additional advanced componentry allowance and sunsetting the allowance after the 2011 model year.

Attachment I contains excerpts of the regulations and documents incorporated by reference in the regulations, with the additional modifications shown along with explanations of the modified language and its rationale. The complete texts of the regulation containing the proposed additional modifications, and of the modified test procedure document, are available online at the ARB's Internet site for the rulemaking shown above. Printed copies may be obtained from Marilyn Favors at (916) 323-6169.

Comments and subsequent action. The additional modifications are being made available for a second supplemental comment period in accordance with section 11346.8 of the Government Code. In Resolution 03-4, the Board directed the Executive Officer to either 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.

Written comments on the proposed additional 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
P.O. Box 2815
Sacramento, California 95812

Electronic mail is to be sent to: zev2003@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 additional modifications to the text of the regulations will be considered by the Executive Officer.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA coordinator at (916) 323-4916.

If you have special accommodation or language needs, please contact ARB Regulations Coordinator Amy Whiting at (916) 322-6533 or by email at awhiting@arb.ca.gov. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CALIFORNIA AIR RESOURCES BOARD

Robert H. Cross, Chief
Mobile Source Control Division

Attachments

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.