

**ADDITIONS TO AND DELETIONS FROM THE RULEMAKING FILE****A. ADDITIONAL SUPPORTING DOCUMENTS AND INFORMATION**

The following additional supporting documents and information are being made available for public comment during the supplemental public comment period in the 2003 rulemaking amending the California Zero Emission Vehicle (ZEV) regulation.

1. Anderman, Menahem, *Brief Assessment of Improvements in EV Battery Technology Since the BTAP June 2000 Report*, April 2003
2. California Air Resources Board, *Staff Report: Initial Statement of Reasons, Proposed Amendments to California Exhaust and Evaporative Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks and Medium Duty Vehicles ("LEV II") and Proposed Amendments to California Motor Vehicle Certification, Assembly-Line and In-Use Test Requirements ("CAP 2000")*, September 18, 1998
3. California Air Resources Board, *Final Statement of Reasons, "LEV II" and "CAP 2000" Amendments to the California Exhaust and Evaporative Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks and Medium Duty Vehicles, and to the Evaporative Emission Requirements for Heavy-Duty Vehicles*, September 1999
4. U.S. Environmental Protection Agency, *Green Vehicle Guide – Model Year 2003*
5. ACEEE's Green Book, *The Environmental Guide to Cars and Trucks Model Year 2002*
6. American Petroleum Institute, *How Much We Pay For Gasoline*, October 2002
7. ARCADIS Geraghty & Miller, *Fuel Cycle Energy Conversion Efficiency Analysis Status Report* May 2000
8. Toyota comments submitted during 2001 ZEV program rulemaking
9. Anderman, Menahem, *The 2002 Industry Report – A Critical New Assessment of Automotive Battery Trends*," Advanced Automotive Batteries, April 2002, first two cover pages only
10. California Air Resources Board, Requisition for Advanced Automotive Batteries report entitled *The 2002 Advanced Automotive Battery Industry Report*, dated June 26, 2002

11. Lipman, Timothy and Hwang, Roland, *Hybrid Electric and Fuel Cell Vehicle Technological Innovation: Hybrid and Zero Emission Vehicle Technology Links*, Draft of June 18, 2003
12. Ricardo Consulting Engineering Ltd., *“Carbon to Hydrogen” Roadmaps for Passenger Cars: A Study for the Department for Transport and the Department of Trade and Industry*, November 8, 2002
13. Toyota advertisement in July 14 & 21, 2003 New Yorker magazine, p. 1

All of these documents are available for inspection during normal business hours at the Air Resources Board (ARB) offices, 1001 I Street, Sacramento CA 95812; contact Marilyn Favors at (916) 323-6169. The documents listed in Section B. below are available in the same manner.

**B. ADDITION TO RULEMAKING FILE OF MATERIALS REFERENCED BY BOARD MEMBERS DURING THEIR DISCLOSURES OF EX PARTE COMMUNICATIONS AT THE APRIL 24, 2003 BOARD HEARING**

After accepting comment at hearings on March 27 and 28, 2003, the Board closed the record and continued its consideration to an April 24, 2003 hearing. As part of the April 24, 2003 hearing, the Board members disclosed any ex parte communications they had had with interested parties since issuance of the hearing notice on January 10, 2003. A few of the Board members referred to written materials they had looked at that had been transmitted from interested parties between the March 28 and April 24, 2003 hearings. Since those written materials were submitted after the record had been closed to public comment on March 28, and before the record is reopened to accept comment on modified regulatory text and information being added to the rulemaking file, they are not being treated as timely public comments. However, the materials are being added to the rulemaking file for the limited purpose of completing the Board members' disclosures of the ex parte communications in which they participated. Materials from interested members of the public that were transmitted to a Board member during March 28 – April 24, 2003 but that were not read by the Board member are not being added to the rulemaking file. The materials described above that are being added to the rulemaking file are the following:

1. CalETC slide presentations dated April 15 and 17, 2003
2. April 10, 2003 letter from V. John White, special representative, Sierra Club
3. April 23, 2003 letter from Kazuo “Joe” Tomita, Toyota Motor North America
4. Elaine Lissner, AATA Proposal, transmitted April 7, 2003
5. Elaine Lissner, AATA Proposal - Revised, transmitted April 19, 2003

6. April 21, 2003 letter from Ed Kjaer, Southern California Edison, to Dr. William A. Burke.

### C. REMOVAL OF 2002 INDUSTRY REPORT FROM RULEMAKING FILE

One of the 20 References listed on pp. 58-9 of the January 10, 2003 Staff Report: Initial Statement of Reasons (ISOR) was "Anderman, Menahem, *The 2002 Industry Report – A Critical New Assessment of Automotive Battery Trends*," Advanced Automotive Batteries, April 2002." (the *2002 Industry Report*). Shortly after issuance of the ISOR, the ARB received a request from a representative of Sierra Research, Inc. for copies of all References. In the course of responding to this request, ARB counsel concluded that the terms of the ARB's acquisition of the *2002 Industry Report* precluded its release outside the ARB. The author of this 124 page report was one of the three members of the ARB's 2000 Battery Technology Advisory Panel, along with Fritz Kalhammer and Donald MacArthur. Under contract with the ARB, that panel had prepared the June 22, 2000 report "*Advanced Batteries for Electric Vehicles: An Assessment of Performance, Cost and Availability*," a publicly available report used in the 2001 ZEV rulemaking. The *2002 Industry Report* was prepared privately by Dr. Anderman's firm, Advanced Automotive Batteries, for limited distribution to subscribers. The ARB acquired a copy of the report from the firm at a cost of \$6000. The second page of the *2002 Industry Report* includes the following legend: Limited: This Report is intended for use only within your organization and should not be made available to others."

Under these circumstances, ARB counsel determined that the ARB was not authorized to provide copies of the *2002 Industry Report* to interested parties outside the ARB, and Sierra Research was so notified. ARB counsel further concluded that it was inappropriate for the ARB to rely on the *2002 Industry Report* in the rulemaking since it was not available to interested parties without their having to purchase the report from the publisher for a substantial sum. Accordingly, the *2002 Industry Report* has been removed from the rulemaking file, and it is not being relied upon by the ARB in this rulemaking.

After determining that the ARB could not release the *2000 Industry Report* to the public, the ARB contracted with Dr. Anderman to prepare a more abbreviated and updated report that could be made available to the public and used in the 2003 ZEV rulemaking. This report, "*Brief Assessment of Improvements in EV Battery Technology since the BTAO June 2000 Report*," was released to the public at the March 27, 2003 hearing, at which Dr. Anderman also testified. The list earlier in this Attachment of additional material being added to the rulemaking record includes the *Brief Assessment of Improvements in EV Battery Technology since the BTAO June 2000 Report*, as well as the first two title pages of the *2002 Industry Report*, and the June 26, 2002 Requisition form used to acquire the *2002 Industry Report*.