

## **TITLE 13. CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE EMISSION CONTROL AND SMOG INDEX LABELS REGULATIONS**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the Emission Control and Smog Index Label regulation. The proposed amendments would revise the smog index in the existing Smog Index Label and establish a global warming index to be incorporated into that label.

DATE: June 21, 2007

TIME: 9:00 a.m.

PLACE: Los Angeles Airport Marriot Hotel  
5855 West Century Boulevard  
Los Angeles, CA 90045

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 21, 2007, and may continue at 8:30 a.m., June 22, 2007. This item may not be considered until June 22, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before June 21, 2006, to determine the day on which 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 title 13, California Code of Regulations, section 1965 (Emission Control and Smog Index Labels – 1979 and subsequent Model-Year Motor Vehicles) and to the “California Smog Index Label Specifications” adopted September 5, 2003 incorporated by reference therein, and proposed incorporation by reference in that same section 1965 of new “California Environmental Performance Label Specifications.”

**Background:** To provide vehicle emissions information to consumers, the ARB has required a Smog Index label on new vehicles since the 1998 model year (MY). The Smog Index Label provides consumers with an indication of the relative emissions performance of new light-duty vehicles for smog forming exhaust emissions of non-methane organic gas, oxides of nitrogen, and evaporative hydrocarbons.

Over the past several years there have been a number of studies using focus groups and market research to evaluate different types of vehicle labeling and ranking programs. In these studies, respondents preferred some kind of overall environmental score that they could have faith in and would be applicable across the country and across all vehicles. Respondents stated that the information needs to be presented in a way that consumers find simple and understandable. Unfortunately, consumers do not have a clear understanding of environmental factors as they relate to car choice and tend to assign responsibility for this issue to government or industry. However, there appears to be growing public awareness of environmental issues. A recent California Field Poll indicates the majority of Californians consider global warming as a serious problem.

Consumer awareness of a vehicle's environmental footprint would help consumers make the cleanest purchasing choice possible when selecting a new vehicle. Ultimately, consumer decisions to buy cleaner cars could result in lower emissions than would be achieved from regulating vehicles alone.

In 2005 Assembly Bill (AB) 1229 was signed into law adding Health & Safety Code section 43200.1 which, among other things, requires ARB to develop a greenhouse gas index and label, and to review the existing Smog Index Label. Staff proposes amending the Smog Index Label to add a Greenhouse Gas Index, and add specific requirements to label information and presentation to enhance label appearance and consistency. These labeling requirements are prescriptive by nature and will require one label size and design to be used by all affected vehicle manufacturers.

### **The Proposed Amendments:**

In preparing this proposal staff found noticeable differences in the way the Smog Index was presented by different manufacturers, making it difficult for consumers to compare emission or smog forming values from one vehicle to the next. As a result, staff proposes modifications to the graphics and content of the existing California Smog Index Label and is also proposing a new Global Warming Index to be included on the new label.

The current Smog Index Label uses a relative ratio to compare actual vehicle emissions to an average vehicle. Staff found inconsistencies in existing label size and presentation of content used by manufacturers which creates confusion and misunderstanding by consumers. Prior market research by the United States Environmental Protection Agency (U.S. EPA), based on consumer focus groups, recommended a simple scale from 1 -10 for both Air Pollution and Greenhouse Gas (GHG) emissions. Staff also performed market research based on consumer focus groups and determined that using a simpler scale from 1-10 represents the optimal way to present emissions information.

For the Smog Index, staff recommends using a simple scale from 1-10 where 1 represents the dirtiest vehicle available and 10 the cleanest based on vehicle emission certification standards. This scale is consistent with the U.S. EPA scale currently used

on their Green Vehicle Guide website. U.S. EPA found through focus groups that this scale was meaningful for prospective car buyers. While U.S. EPA provides these scores on its website, vehicle labeling using these scores is voluntary. Currently none of the auto manufacturers label their vehicles using U.S. EPA's program, although some manufacturers reference their vehicles' scores in product literature.

For the Global Warming Index, staff developed a scoring system also using a simple 1-10 scale. The scoring system incorporates all vehicle greenhouse gases mandated by ARB's motor vehicle greenhouse gas emission standards, which take effect for 2009 model year. Similar to Smog scores, U.S. EPA provides greenhouse gas scores on its website but does not require that scores be printed on new vehicle labels. U.S. EPA's greenhouse gas scores are based on different calculation methods and at this time are not aligned with staff's proposed scoring system.

Staff recommends that the scoring system be re-analyzed when 2012 MY California certification data become available. This new analysis is required because annual reductions in global warming emissions, as required by ARB's greenhouse gas emission standards, may alter the distribution of scores over time.

Staff recommends the new label regulations take effect for all passenger cars, light-duty trucks, and medium-duty passenger vehicles manufactured on or after October 1, 2008.

In designing the new California Environmental Performance label, staff turned to market research specialists for help and sought out consumer-based input from focus groups to provide clarity and understanding of a newly designed label. The purpose of these focus groups was to build upon the work previously done and to obtain up-to-date information from California specific consumers. As a result staff designed a new label based on this research. The label best understood by respondents is shown in figure 1.

**Figure 1: Proposed California Environmental Performance**

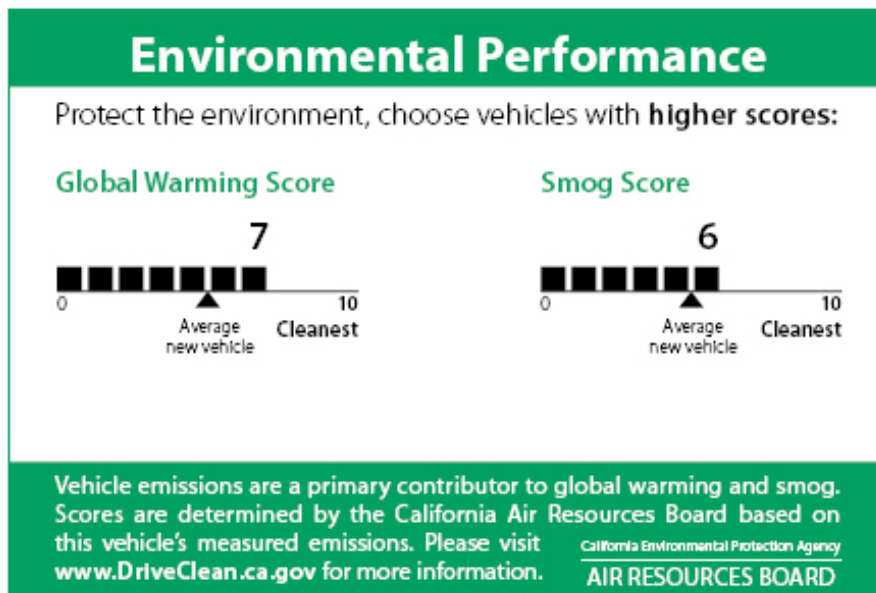


Figure 1 shows the Global Warming score on the left and the Smog Score on the right. The black boxes represent the score of the labeled vehicle. A triangle below the scale shows score of an average vehicle for comparison purposes. It was clear in the focus groups that with the word “cleanest” under the 10 and with the statement: “Protect the environment, choose vehicles with the higher scores” meant vehicles with more black boxes were cleaner vehicles. The statement at the bottom of the label describes the impact of motor vehicles on smog and global warming. It also points consumers to the ARB’s [www.DriveClean.ca.gov](http://www.DriveClean.ca.gov) website which is a consumer oriented website with information about clean cars, alternative fuel and advanced technology vehicles.

### **COMPARABLE FEDERAL REGULATIONS**

Currently there is no federal smog or GHG vehicle emission labeling requirements.

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulation, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled: “Staff Report: Initial Statement of Reasons for Rulemaking: Proposed Amendments to the Smog Index Vehicle Emissions Label.”

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 website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, California 95814, or by calling (916) 322-2990.

Upon its completion after the Board hearing, 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 website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to Mr. Craig Duehring, Air Resources Engineer, by email at [cduehrin@arb.ca.gov](mailto:cduehrin@arb.ca.gov), or by phone at (916) 323-2361, or to Mr. Gerhard Achtelik, Manager, Zero Emission Vehicle (ZEV) Infrastructure Section, by email at [gachteli@arb.ca.gov](mailto:gachteli@arb.ca.gov) or by phone at (916) 323-8973.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Alexa Malik, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, at (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.

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/labels07/labels07.htm](http://www.arb.ca.gov/regact/2007/labels07/labels07.htm).

### **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 not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any 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 costs or savings to state or local agencies.

The proposed amendments would modify the existing Smog Index Label and add a global warming score to the existing label. Based on the amount of information already on the label and the fact that the new global warming score must be added, the size of label must be increased to accommodate both scales. In addition, the legislation requires using a color other than black for some portion of the label.

The total annual cost to implement this regulation is calculated as the annualized capital cost to upgrade existing printers plus the annual operating cost for increasing the label size and using color cartridges. For the industry as a whole this equates to \$245,000 per year. The initial annualized capital cost for a typical manufacturer to implement this regulation is estimated to be \$3,500. The annual ongoing cost for increasing label size and using color cartridges for a typical manufacturer is estimated to be \$4,667. Thus, the total annual cost for a typical manufacturer is \$8167. These cost estimates will vary slightly by manufacturer depending on the actual number of assembly plants, ports of entry, printers required, and vehicles produced.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. Only businesses involved in the production of automobiles would be directly affected by the proposed amendments. Most vehicle manufacturers are located outside of California. Staff was not able to determine if the automobile manufacturer will pass on the full incremental cost of revising the Smog Index Label to the consumer.

The Executive Officer has made an initial determination that the proposed regulatory action 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.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action 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.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would not affect small businesses. There are no known small business automobile manufacturers.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer finds that the reporting requirements of the regulation 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 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 email 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, June 20, 2007**, and addressed 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 (Govt. 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 ten 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 39600, 39601, 43200, and 43200.1. This action is proposed to implement, interpret and make specific sections 39002, 39003, 43000, 43013, 43018.5, 43100, 43101, 43102, 43103, 43104, 43107 43200, 43200.1, 44250, 44251, 44252, 44253, 44254, 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 Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve 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.

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, 1<sup>st</sup> Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon  
Executive Officer

Date: April 24, 2007