

State of California  
AIR RESOURCES BOARD

Final Statement of Reasons for Rulemaking  
Including Summary of Comments and Agency Responses

**PUBLIC HEARING TO CONSIDER A ONE-YEAR POSTPONEMENT OF THE  
REQUIREMENT THAT 1998 AND SUBSEQUENT MODEL-YEAR VEHICLES  
PRODUCED BY ULTRA-SMALL VOLUME MANUFACTURERS MEET THE  
ENHANCED EVAPORATIVE EMISSION REQUIREMENTS**

Public Hearing Date: May 22, 1997  
Agenda Item No.: 97-4-3

This rulemaking was initiated by the publication on April 4, 1997, of a notice of public hearing to consider amendments to the phase-in schedule for the enhanced evaporative emission regulatory requirements, allowing ultra-small volume manufacturers (USVMs) to delay use of the enhanced evaporative emission test procedures for one year, until the 1999 model year (MY). A Staff Report (Initial Statement of Reasons for Proposed Rulemaking) was also made available for public inspection on April 4, 1997. The Staff Report, which is incorporated by reference herein, contained the text of the regulatory amendments as initially proposed by the staff, along with a description of the rationale for the proposal.

Under the preexisting regulatory requirements, a small volume manufacturer (SVM) must have all of its 1998 and subsequent MY vehicles comply with the enhanced evaporative emission requirements. An SVM is defined as a manufacturer with California sales less than or equal to 3,000 new vehicles per MY, based on the average number of vehicles sold by the manufacturer in the previous three consecutive MYs. Some SVMs have vehicle sales in California far below the 3,000 per year cut-off in the regulation. The Coalition of Small Volume Automobile Manufacturers (COSVAM) is a recently-formed organization open to manufacturers that produce fewer than 5,000 vehicles per year world-wide. As of January 1997, COSVAM had 19 members with combined California sales of about 1,000 vehicles per MY. COSVAM requested that the Air Resources Board (ARB) delay the enhanced evaporative emission phase-in requirement for its members one year until the 1999 MY. Under the staff's proposal in this rulemaking, "ultra-small volume manufacturer" is defined as a manufacturer with California sales not exceeding 300 vehicles per MY, based on the average number of vehicles sold by the manufacturer in the previous three consecutive MYs. The proposal would align the California phase-in requirement for USVMs with the United States Environmental Protection Agency's (U.S. EPA) enhanced evaporative emission phase-in requirement for SVMs.

The proposed action consisted of amendments to section 1976, title 13, California Code of Regulations and the incorporated “California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles.”

On May 22, 1997, the ARB conducted a public hearing at which it received written and oral comments on the regulatory proposal. At the conclusion of the hearing, the Board adopted the regulatory amendments as proposed by adopting Resolution 97-20.

**Incorporation of Test Procedures and Federal Regulations.** The amended regulation, section 1976, title 13, California Code of Regulations, incorporates by reference the ARB’s “California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles.” This standards and test procedures document in turn incorporates certification test procedures adopted by U.S. EPA and contained in Code of Federal Regulations, Title 40, Part 86.

Section 1976, title 13, California Code of Regulations, identifies the incorporated ARB document by title and date. The ARB document is readily available from the ARB upon request and was made available during the subject rulemaking in the manner specified in Government Code section 11346.7(a). The Code of Federal Regulations is published by the Office of the Federal Register, National Archives and Records Administration, and is therefore reasonably available to the affected public from a commonly known source.

The standards and test procedures document is incorporated by reference because it would be impractical to print it in the CCR. Existing ARB administrative practice has been to have the test procedures incorporated by reference rather than printed in the CCR because 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 utilized therein. 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 Code of Federal Regulations because the ARB requirements are substantially based on the federal regulations. Manufacturers typically certify vehicles and engines to a version of the federal emission standards and test procedures which have been modified by state requirements. Incorporation of the federal regulations by reference makes it easier for manufacturers to know when the two sets of requirements are identical and when they differ.

**No mandates.** The Board has determined that this regulatory action will not result in a mandate to any local agency or school district, the costs of which are reimbursable pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

**Alternatives.** 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.

**Economic Impacts.** In preparing the regulatory proposal, the staff considered the potential impacts on California business enterprises and individuals. None of the likely USVMs are located in California. Adoption of the proposal would avoid the decrease in sales by California dealers of 1998 MY vehicles manufactured by USVMs that are not certified to the enhanced evaporative emission requirements. Based on the comments presented at the hearing, a one-year postponement in the enhanced evaporative emission requirements for USVMs would avoid the loss of sales of about 100-150 vehicles, generating approximately \$6 million in dealership revenue from vehicle sales, parts, and services. For these reasons, adoption of the amendments is not expected to have a significant adverse economic impact on large or small businesses, including the ability of California businesses to compete with businesses in other states, or on directly affected private persons.

**Summary of Comments and Agency Responses.** The only commenter who submitted written comments was COSVAM. At the hearing, oral testimony was presented by Lance Tunick, representing COSVAM; Randal Busik representing COSVAM and Aston Martin Lagonda; Bruce Qvale, representing British Motor Car Dist. Ltd.; Simon Rodd, representing Aston Martin Lagonda; Tim Holland, representing Lotus Cars Ltd.; and Bill Fink, representing Morgan Motor Co. Ltd. U.K. All of the commenters supported the proposed amendments. There were no comments requesting a change in the proposed amendments or raising issues regarding the procedures followed by the ARB in adopting the amendments.