

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text and Availability of Additional Documents and Information

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE
EMISSION CONTROL AND SMOG INDEX LABELS REGULATIONS

Public Hearing Date: June 21, 2007

Public Availability Date: December 7, 2007

Deadline for Public Comment: December 26, 2007

Deadline for Public Comment Period has been extended to January 4, 2008

At its June 21, 2007 public hearing, the Air Resources Board (ARB or Board) approved the amendment of § 1961 and § 1965 of Title 13, California Code of Regulations (CCR), which revises the smog index in the existing Smog Index Label and establishes a global warming index to be incorporated into that label.

The Board's Action

At the hearing, staff distributed proposed modifications for the Board's review. The Board adopted Resolution 07-26, approving the regulation amendments as originally proposed in the Staff Report (Initial Statement of Reasons – released May 4, 2007) with staff's proposed modifications, with an optional smaller sized label if placed on the Monroney sticker, and with authorization for the Executive Officer to propose additional conforming modifications as appropriate. In response, Staff is proposing modifications to the document incorporated by reference "California Environmental Performance Label Specifications for 2009 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles." All of the proposed modifications are discussed below and affect only the California Environmental Performance Label Specifications (CEPLS).

Staff's Proposed Modifications Presented at the June 21, 2007 Hearing

1. Minor changes to the display and content of the label;
2. Replacing the bi-fuel, dual-fuel and flex-fuel phrases with a single alternative-fuel phrase;
3. Adding a dimensional tolerance to label requirements;
4. Modifying label requirements to require that vehicles exempted from greenhouse gas requirements pursuant to Title 13, CCR, § 1961.1(a) – commonly referred to as "work trucks" – need only display the smog index score on the label;
5. Modifying label requirements to identify the average projected Non-Methane Organic Gasses (NMOG) + Oxides of Nitrogen (NOx) emissions will be closest to a Ultra-Low Emission Vehicle (ULEV) certification;
6. Allowing bar coding information to be displayed outside of the label;

7. Allowing the use of an uncoated or coated color label; and
8. Increasing side width of the green border;

The Board's Directive at the June 21, 2007 Hearing

Based on public testimony at the June 21, 2007 public hearing, the Board also directed staff to initiate additional changes to the proposed regulations to allow the display of a reduced label size, measuring no smaller than 2 ½ inches x 4 ½ inches, only if the reduced label and text size were still readable and recognizable by consumers and if the label is incorporated into the new vehicle Monroney sticker.

9. Allowing the use of a reduced label size when placed within the Monroney sticker; and

To further the Board's directive regarding visual contrast between the reduced-size label and other information on the Monroney sticker, this proposal also modifies the CEPLS to:

10. Prohibit the use of green on the Monroney sticker near the label when placing the reduced size label on the Monroney sticker.

Post-Hearing Conforming Modifications

Finally, other minor and conforming changes are proposed for clarification purposes such as providing uniform labeling dimension units and correcting typographical or numbering errors. These changes are summarized in:

11. Other minor changes,

A more detailed description of the proposed modifications is listed by number below.

Modified Text Being Made Available

The Board's approved modified text, with staff's subsequent modifications, is appended to this notice as Appendix A. By this notice, the modified text and Resolution 07-26 are being made available for public comment prior to final action by the Board's Executive Officer. All of these documents are available online for public inspection at ARB's Internet website for this rulemaking at:

<http://www.arb.ca.gov/regact/2007/labels07/labels07.htm>.

Summary of Proposed Modifications

The following summarizes the proposed modifications as recommended and presented by staff and approved by the Board as Resolution 07-26 at the June 21, 2007 public hearing. These proposed modifications and additional proposed modifications based on the Board's action at the hearing are presented in this notice. The rationale for

making the modifications is also summarized. The section numbers and paragraphs are referenced as renumbered in the attached modified text.

1. Minor changes to the display and content of the label

Minor changes are being proposed to the display and content of the label. The first change is to reposition the black triangle and corresponding text “Average new vehicle” under each scale to the middle of block number 5 or where the middle of block 5 would normally appear on the scale. The black triangle and corresponding text originally appeared at the midpoint of the scale which falls between block 5 and block 6. The triangle and text are being repositioned directly under block 5 because the average new vehicle for both scales is assigned a score of 5. Refer to § 6(b)(15) and § 6(b)(7) of the CEPLS for proposed modified language.

The second proposed change is to § 6(b)(6) of the CEPLS, to replace the number 0 underneath each scale with the number 1. This change is needed because no vehicles would ever receive a score of 0. The scores on both scales start with the number 1.

2. Replacing the bi-fuel, flex-fuel and dual-fuel phrases with a single alternative fuel phrase

The bi-fuel, flex-fuel and dual-fuel phrase requirements in § 6(b)(19), § 6(b)(20), and § 6(b)(21) of the CEPLS are being deleted and replaced with a single alternative fuel phrase requirement, new § 6(b)(19), which will be printed on the label of vehicles capable of operating on more than one fuel. This proposed change is being made to reduce the number of printing variables required by the vehicle manufacturers. With this change, any vehicle capable of operating on more than one fuel will only be required to display one phrase, regardless if it uses a bi-fuel, flex-fuel, or dual-fuel system. In addition, two proposed modifications to § 5 are being made to include grid-connected hybrid electric vehicles as vehicles capable of operating on more than one fuel and the words “or diesel” were added to the end of the paragraph to include both diesel and gasoline as a potential operational fuel for vehicle emission testing.

3. Adding a dimensional tolerance to label requirements

A 1.0 millimeter dimensional tolerance is being proposed for addition to § 6 of the CEPLS to allow for potential differences in printer accuracy and label feedstock alignment during printing. The 1.0 millimeter tolerance also applies to the proposed reduced size alternate label found in § 7.

4. Modifying label requirements to require that vehicles exempted from greenhouse gas requirements pursuant to Title 13, CCR, § 1961.1(a) – commonly referred to as “work trucks” – need only display the smog index score on the label.

Title 13, CCR, § 1961.1(a) allows an exemption from testing and reporting fleet average

greenhouse gas exhaust mass emissions for light-duty trucks from 3751 pounds Loaded Vehicle Weight (LVW) up to 8500 pounds Gross Vehicle Weight (GVW) that are certified to the Option 1 LEV II NOx Standard in Title 13, CCR, § 1961(a)(1). Vehicles so certifying are commonly referred to as light-duty “work trucks.” A manufacturer may certify up to 4 percent of its light-duty truck fleet from 3751 pounds LVW – 8500 pounds GVW with a maximum base payload of 2500 pounds or more to the Option 1 LEV II NOx standard. Therefore, additional regulatory language is being proposed to § 3(c)(2) and § 6(b)(5) of the CEPLS to specifically address this exemption. For clarification reasons, the proposed reformatting of § 3(c) now includes § 3(c)(1), § 3(c)(2), and § 3(c)(3).

5. Modifying label requirements to identify that the average projected NMOG + NOx emissions will be closest to a ULEV certification

Proposed modifications to § 4(a) of the CEPLS are being made to clarify that the average new vehicle is not being assigned a ULEV certification. Rather, the average new vehicle NMOG + NOx is projected to be closest to a ULEV certification and thus will receive a smog score of 5. This proposed clarification is needed because the label requirements do not assign a vehicle certification level, but rather the label requirements will assign and reflect a score based on a vehicle’s certification level.

6. Allowing bar coding information to be displayed outside of the label

Proposed modifications to § 2(a) of the CEPLS are being made to allow expansion of the Environmental Performance label to include bar coding information. The proposed modifications now allow for inclusion of bar coding information on the label only if all requirements for the Environmental Performance label are maintained and the bar coding information is placed outside the 4 x 6 inch label perimeter. This proposed modification allows for label ordering and inventory flexibility among manufacturers.

7. Allowing the use of an uncoated or coated color label

Proposed modifications to § 6(b)(1) and Attachment A numbers 1, 4, and 10 of the CEPLS are being made to allow the use of a coated or uncoated color when using the Pantone Formula Guide, product # GP1201, color Pantone Matching System (PMS) 347. This proposed change will allow for the display of either a PMS 347 C or PMS 347 U color on the label. The difference in the actual displayed color is minor but will allow for flexibility in label printing options by the vehicle manufacturers.

In addition, proposed modifications to § 6(b)(1) identify the Pantone Formula Guide, product # GP1201, as the reference color guide. See the [Additional Supporting Documents Being Made Available](#) section within this notice for further information on the Pantone Formula Guide, product # GP1201.

8. Increasing side width of the green border

Proposed modifications to § 6(a)(2) and Attachment A number 1 of the CEPLS are being made to increase the line thickness of the green border on both the right and left sides of the label. The line thickness, as proposed, will increase from 1 point to 3 points. This proposed change will enhance the label's border for label differentiation in the event of close placement with other labels.

9. Allowing the use of a reduced label size when placed within the Monroney sticker

Based on public testimony heard at the June 21, 2007 public hearing, the Board directed staff to consider the display of a reduced label size, measuring no smaller than 2 ½ inches x 4 ½ inches, only if the reduced text size was still readable by consumers and if the label could be incorporated into the new vehicle Monroney sticker. Staff first reduced the size of the label from a 4 x 6 inch label down to a 2 ½ x 4 ½ inch label in order to understand label display and character size. Staff then used the largest character size possible to fit within the new label 2 ½ x 4 ½ inch constraints. Staff was able to produce an alternate label measuring 2 ½ x 4 ½ inches that is readable at a reasonable distance by consumers. Based on staff's findings, new specifications were developed for the alternate size label and are being proposed for addition as § 7 (including Attachment B) of the CEPLS. In addition, formatting modifications are being proposed to § 2 to account for the inclusion of the alternate label. Thus, former § 2 is now § 2(a) and § 2(b) is being added to include language that allows the use of the alternate sized label only if the alternate label can be incorporated within the new vehicle Monroney sticker.

10. Prohibiting the use of green on the Monroney sticker near the label when placing the reduced size label on the Monroney sticker

By allowing the Environmental Performance label to be placed on the new vehicle Monroney sticker, staff needed to address the visual stimulation aspect of the label itself. As noted by the focus groups in section VI of the Initial Statement of Reasons, released May 4, 2006, label color is a visual stimulant and the color green represented the environment and conservation. For this reason, the color green was chosen as a border for the label. Therefore, to maintain label effectiveness, proposed regulatory language is being added to § 2(b)(2) of the CEPLS to prohibit the use of a range of green colors on the Monroney sticker within a 2-inch perimeter outside of the label's border. This proposed regulatory language will ensure contrast stimulation between the color green used for the Environmental Performance label and similar color greens used within close proximity.

11. Other minor modifications

Staff is also proposing several other minor conforming modifications to the modified text for clarification purposes such as providing uniform labeling dimension units and

correcting typographical or numbering errors. These proposed minor modifications are not described separately in this notice but can be found in the attached modified text Appendix A.

Additional Supporting Documents Being Made Available

In accordance with Government Code section 11347.1 and Title 1, CCR, § 2(c)(3) and § 44, staff has added to the rulemaking file an additional document identified as the Pantone Formula Guide, product # GP1201. As part of the proposed modifications noticed herein, this additional document is proposed for incorporation by reference to identify the various PMS colors described in the CEPLS. The Pantone Formula Guide, product # GP1201, can be acquired by contacting Pantone, Inc. at (877) 265-6764 or on the internet at www.pantone.com. It is also available for inspection at the postal mailing address noted herein.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt these proposed modifications, 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, or additional proposed modifications presented in this notice, may be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail: Clerk of the Board, California 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 proposed modifications to the text of the regulations shall be considered by the Executive Officer.

Attachment