

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF REGULATIONS FOR THE CERTIFICATION AND TESTING OF GASOLINE VAPOR RECOVERY SYSTEMS USING ABOVEGROUND STORAGE TANKS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of regulations for the certification and testing of gasoline vapor recovery systems installed at gasoline dispensing facilities using aboveground storage tanks.

DATE: June 21, 2007

TIME: 9:00 a.m.

PLACE: Los Angeles Airport Marriott Hotel
5855 W. Century Boulevard
Los Angeles, CA 90045

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., June 21, 2007, and may continue at 8:30 a.m., June 22, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before June 21, 2007, to determine the time when 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 section 94010 and 94011, title 17, California Code of Regulations (CCR), and the incorporated certification and test procedures: *Definitions for Vapor Recovery Procedures*, D-200; and *Efficiency and Emission Factor for Phase II Systems*, TP-201.2; and the proposed adoption of section 94016, title 17, CCR incorporating certification and test procedures: *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks*, CP-206; *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Temperature Attenuation Factor at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.1; *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.2; and *Determination of Static Pressure Performance of Vapor Recovery Systems of Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.3;

and the proposed adoption of section 94168, Test Method for Determining the Static Pressure Performance of Phase II Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks.

Background: Throughout California, ARB authorizes the sale, installation, and use of vapor recovery equipment at gasoline dispensing facilities (GDF) through a certification program. Control of the emissions of air pollutants from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. In March 2000, ARB approved the Enhanced Vapor Recovery (EVR) certification regulation for vapor recovery equipment used with underground storage tanks (UST). The EVR regulations established new standards for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs that use USTs. Vapor recovery equipment used with aboveground storage tanks (AST) was not included in the adopted rulemaking.

Staff's Proposal: ARB staff proposes new vapor recovery certification requirements to reduce emissions from GDFs using ASTs and save gasoline. The proposal will establish new performance standards and specifications for AST vapor recovery systems and components. These new performance standards and specifications control standing loss emissions unique to ASTs, which account for approximately 90 percent of the total statewide emissions for this category. Some of the proposed performance standards and specifications are similar to the existing requirements for UST systems at GDFs adopted as part of ARB's EVR program. This similarity in performance standards and specifications will achieve consistency between AST and UST vapor recovery requirements.

The proposal includes a new certification procedure, CP-206, *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks* that is specifically designed for ASTs. The certification procedure for AST vapor recovery systems and equipment relies on many of the test procedures (TP) that were adopted for UST vapor recovery systems and equipment. These procedures are equally applicable when testing equipment used with ASTs. Staff is also proposing the adoption of three new test procedures to evaluate conformance with the proposed performance requirements: TP-206.1, *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Temperature Attenuation Factor at Gasoline Dispensing Facilities with Aboveground Storage Tanks*; TP-206.2, *Determination of Emission Factors for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks*; and, TP-206.3, *Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks*. These new procedures test vapor recovery systems and equipment that reduce the tank temperature, control emissions directly, and reduce leaks in ways that are specific to systems and equipment using ASTs.

When these proposed regulations are adopted, ARB will certify EVR systems and components for ASTs. District rules determine which new and existing ASTs will be required to use ARB certified EVR systems and components. New ASTs will be required to have EVR systems and components installed by January 1, 2009. Existing ASTs will be required to retrofit or replace current equipment with EVR systems and components by January 1, 2013.

Staff also proposes amendments to TP-201.2, *Efficiency and Emission Factor for Phase II Systems* to correct the emission factor equation and clarify fugitive emissions determinations. Likewise, staff proposes amendments to the definitions in D-200 to clarify and add terms used in the AST vapor recovery certification and test procedures.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline vapor recovery systems for service stations; however, changes to ARB's vapor recovery regulations have a national impact. Certification by ARB is required in most other states that require vapor recovery at service stations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking: Public Hearing to Consider Adoption of Regulations for Certification and Testing of Gasoline Vapor Recovery Systems Using Aboveground Storage Tanks."

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, at least 45 days prior to the scheduled hearing on June 21, 2007.

Upon its completion, 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 website listed below.

Requests for printed documents and inquires concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr. Michael Werst, Mr. Joe Guerrero, or Mr. George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact person to whom non-substantive inquires concerning the proposed administrative action may be directed are Alexa Malik, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-4011. 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 <http://www.arb.ca.gov/regact/2007/ast07/ast07.htm>

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Pursuant to Government Code section 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would create costs or savings to any state agency or in federal funding to the state, costs or mandates to any local agency or 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 cost or savings to state or local agencies.

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 developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may have minor impacts on the creation or elimination of new jobs within the State of California, and may have minor impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minor impacts on 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.

As explained in the ISOR, some individual businesses may be adversely affected by the proposed regulatory action. Therefore, the Executive Officer finds that the adoption of the proposed regulatory action may have a significant adverse impact on some

businesses. The Executive Officer has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses;
- (iii) The use of performance standards rather than prescriptive standards; and
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents 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 or businesses 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 to the following

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/bclist.php> no later than 12:00 noon, June 20, 2007.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than 12:00 noon, June 20, 2007.

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.

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 25290.1.2, 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 25290.1.2, 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 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, ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. ARB may also adopt the proposed regulatory language with other modifications if the modifications are 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 the event that such modifications are made, the full regulatory text, with 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, Visitors and Environmental Services Center, 1001 I Street, 1st Floor, Sacramento, California 95814, (916) 322-2990.

California Air Resources Board

/s/

Catherine Witherspoon
Executive Officer

Date: April 24, 2007