

State of California  
AIR RESOURCES BOARD

**Hearing Officer's Report**

**PUBLIC HEARING TO CONSIDER AN EMERGENCY REGULATORY AMENDMENT  
RELAXING THE REID VAPOR PRESSURE STANDARD FOR CALIFORNIA  
REFORMULATED GASOLINE IN SEPTEMBER AND OCTOBER 2005**

I. INTRODUCTION

On September 8, 2005, I, Michael H. Scheible, Deputy Executive Officer, conducted a public hearing to consider the adoption of a proposed emergency regulatory amendment relaxing the Reid vapor pressure (RVP) standard for Phase 3 California Reformulated Gasoline (CaRFG3) from the effective date of the amendment through October 31, 2005. The hearing was conducted in accordance with a September 6, 2005 delegation of authority from the Air Resources Board (ARB or Board) and from the Executive Officer pursuant to Health and Safety Code sections 39515 and 39516.

A notice for the public hearing was posted on ARB's Internet website on September 6, 2005. Also, on September 6, 2005, a hearing notice and a Staff Report on the proposed emergency amendment were sent to all parties that have asked to receive "listserve" notifications of the ARB's rulemaking hearing notices or ARB activities pertaining to motor vehicles and motor vehicle fuels. Attachment A hereto contains the text of the proposed amendment with a modification presented at the hearing and a further modification regarding use of the CaRFG predicative model during the RVP relaxation period.

Based on the record before me, including the hearing notice, Staff Report, references identified in the Staff Report, and written and oral comments, I make the following findings and recommendations.

II. FINDINGS

A. FINDING OF EMERGENCY AND PROPOSED AMENDMENT

Attachment B hereto is a Finding of Emergency for the proposed amendment, reflecting my findings. It sets forth a description of and the rationale for the amendment. It also provides a detailed explanation of the need for immediate action, and contains all of the information required by Government Code section 11346.1(b).

B. PUBLIC COMMENTS

Prior to or at the hearing, written comments were received from Shell Oil Products US (Shell), California Energy Commission (CEC), Assembly Republican Caucus and five Democratic Legislators, Bluewater Network, California Independent Oil Marketer Association (CIOMA), California Trucking Association (CTA), V. John White representing Center for Energy Efficiency and Renewable Technologies, Natural Resources Defense Council, American Lung Association of California, and Coalition for Clean Air (V. John White). Oral testimony was presented at the hearing by the CEC, Karen Lange representing the Assembly Republican Caucus and five Democratic Legislators (Karen Lange), Western States Petroleum Association (WSPA), Bluewater Network, BP, CIOMA, California Renewable Fuels Partnership (CRFP), CTA, V. John White, John Dunlap, Chevron, Smog Reyes, and Kinder Morgan Energy Partners (Kinder Morgan).

CEC, Karen Lange, WSPA, CIOMA, CTA, Chevron, John Dunlap, and CRFP supported the proposed amendment to temporarily relax the RVP standard for California gasoline to help ensure adequate gasoline supply in California in the near future.

V. John White and Smog Reyes were neutral regarding the proposal. Bluewater Network objected to the proposal.

The following comments were also presented.

1. Comment: There are California Division of Measurement Standards (DMS) regulations which may prevent refiners from utilizing the proposed additional RVP flexibility to the fullest extent. These regulations must be revisited to compliment the ARB action. (WSPA, BP, Chevron, Kinder Morgan)

Response: We are working with the DMS staff to ensure that necessary modifications are made to the appropriate DMS volatility standards for California gasoline.

2. Comment: The staff's proposal does not include a relaxation of the RVP standard for CARBOB. The current infrastructures at California gasoline terminals are not adequate to allow the use of 10 percent ethanol in California gasoline. (Kinder Morgan)

Response: The relaxation of the CARBOB cap limit for RVP was presented at the hearing as a modification and is included in the final amendments.

3. Comment: We would like to see additional regulatory relaxation to facilitate the use of 10 percent ethanol, which would increase gasoline volume. Additional

reductions of carbon monoxide and fine particulate matter emissions could be realized with 10 percent ethanol in California gasoline. (Karen Lange, CIOMA, CRFP, Smog Reyes, John Dunlap III)

Response: Current ARB regulations already allow up to 10 percent ethanol to be used, but require that any emissions increases associated with higher oxygen content be compensated for by controlling other fuel properties. Removing these emission mitigation requirements could allow up to a 3 percent increase in supply, provided that additional ethanol supplies could be made available from the Midwest or other locations. However, under today's circumstances this is not likely in the immediate future. Ethanol inventories are balanced around current use patterns, and the average ethanol content of gasoline cannot be increased unless greater supplies are imported into California and modifications to the California infrastructure are completed. This is supported by testimony from the CEC and Kinder Morgan. Also, this is not expected to be possible immediately, and probably would not occur before the conditions that created the current supply problems are resolved.

4. Comment: We oppose the proposed regulatory relaxation due to lack of need, based on current gasoline supplies, and increased ozone pollution and associated adverse health effects. (Bluewater Network)

Response: We are very reluctant to relax the RVP standard and allow an increase in reactive organic compound emissions; however, we firmly believe that this strategy is absolutely necessary for the reasons stated in the Finding of Emergency and can be implemented expeditiously enough to help prevent fuel supply disruptions.

5. Comment: This is the worst time of year for an increase in reactive organic compound emissions, which could cause many late season ozone standard violations. We encourage the CEC to work harder on demand reduction strategies, analogous to those employed in electricity conservation. (V. John White)

Response: Ozone standard exceedences are significantly worse during summer than they are during the second half of September and in October, so we do not expect the amendment to contribute to peak values. However, we agree that significant impacts may occur, but find that relief is still needed in the near term.

6. Comment: We request a temporary suspension of the aromatic hydrocarbon content regulation on California diesel fuel, so that additional diesel fuel supplies may be brought into California from out-of-state. (CTA)

Response: Our analysis, which is supported by the CEC staff, indicates that suspending the aromatic hydrocarbon content regulation on California diesel fuel would not increase diesel fuel supplies in California. The production of higher aromatic fuel would not increase the volume of fuel produced. Also, there are no excess higher aromatic diesel fuels available at this time.

7. Comment: ARB should clarify that refiners may elect to designate gasoline produced during the September-October 2005 Hurricane Katrina RVP relaxation period as non-summer gasoline. (Shell)

Response: While U.S. EPA has a requirement that gasoline be designated as "VOC-controlled" or not (40 CFR section 80.65(d)(2)), ARB does not have an analogous requirement. Therefore, there is no need to clarify how gasoline is to be designated under the ARB regulations.

### C. ENVIRONMENTAL AND ECONOMIC IMPACTS

The emergency amendment would temporarily result in a significant increase in emissions from gasoline powered vehicles until the end of the state's smog season, October 31 in most urban areas and on September 30 in the remaining areas. The rule relaxation is expected to increase vehicle emissions of reactive hydrocarbons, one of the two principal precursors of urban smog (ozone pollution), by about 75 tons per day. The increase is about one percent of the smog forming emissions from all sources and could increase ozone levels on the order of one percent on hot autumn days. While ozone levels during September and October are normally lower than peak summer levels, violations of these health protective standards still occur during these months in several areas, including the eastern portion of the South Coast Air Basin and parts of the San Joaquin Valley.

The economic impacts of the emergency amendment would be the cost associated with increased ozone pollution and the benefit of greater flexibility and greater yields for gasoline producers.

### III. HEARING OFFICER'S CONCLUSIONS AND RECOMMENDATIONS

After full consideration of the record herein, including all testimony and written materials submitted by the staff and interested parties, the hearing notice, and the Staff Report and its References, I find the adoption of the Finding of Emergency set forth in Attachment B hereto, and adoption of the emergency amendment set forth in Attachment A hereto, to be necessary and appropriate. I accordingly recommend that the Executive Officer issue an Executive Order that adopts the Findings of Emergency

set forth in Attachment B hereto, and adopts the amendment set forth in Attachment A hereto. I also recommend that staff in cooperation with the CEC staff monitor the fuel supply situation, particularly as it relates to diesel and ethanol.

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Michael H. Scheible  
Deputy Executive Officer  
Hearing Officer

Date: \_\_\_\_\_

Adopted: \_\_\_\_\_  
Catherine Witherspoon  
Executive Officer

Date: \_\_\_\_\_