

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO CERTIFICATION AND TEST PROCEDURES FOR VAPOR RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES (GDFs) AND CARGO TANKS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities (GDFs) and Cargo Tanks.

DATE: July 25, 2013

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., July 25, 2013, and may continue at 8:30 a.m., on July 26, 2013. This item may not be considered until July 26, 2013. Please consult the agenda for the hearing, which will be available at least 10 days before July 25, 2013, to determine the day on which this item will be considered.

#### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE 11346.5(a)(3)**

**Sections Affected:** Proposed amendment to California Code of Regulations, title 17, sections 94011, 94014, and 94016.

#### **Documents Incorporated by Reference:**

The Following Documents are Incorporated by Reference:

1. TP-201.1 - "Volumetric Efficiency for Phase I Systems" (Adopted: April 12, 1996 and last amended: July 26, 2012)
2. CP-204 - "Certification Procedure for Vapor Recovery Procedure for Vapor Recovery Systems for Cargo Tanks" (Adopted: April 12, 1996 and last amended: March 17, 1999)
3. TP-204.1 - "Determination of Five Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks" (Adopted: April 12, 1996 and last amended: March 17, 1999)
4. TP-204.2 - "Determination of One Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks" (Adopted: April 12, 1996 and last amended: March 17, 1999)

5. TP-204.3 - "Determination of Leak(s)" (Adopted: April 12, 1996 and last amended: March 17, 1999)
6. TP-206.2 - "Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks" (Adopted: May 2, 2008)

**Background:**

In California, gasoline vapor emissions are controlled during the transfer of gasoline from storage tanks at terminals or bulk plants to tanker trucks, from tanker trucks to storage tanks at gasoline dispensing facilities (GDFs), and from GDF tanks to the vehicle's fuel tank during vehicle fueling. The ARB and the air pollution control/air quality management districts (air districts) share implementation of the vapor recovery program. ARB staff certifies prototype vapor recovery systems installed at operating station test sites. State law requires that throughout California only ARB-certified systems be offered for sale, sold, and installed. Air district staff inspects and tests the vapor recovery system upon installation during the permit process and conducts regular inspections to check that systems are operating as certified. ARB has also adopted regulations establishing procedures for certifying vapor recovery equipment installed on cargo tanks and procedures for testing and certifying that equipment annually.

ARB is now proposing to make minor amendments to several of the current vapor recovery certification and test procedures.

**Objectives and Benefits:**

The proposed amendments to certification and test procedures will:

1. Improve two test procedures used by ARB staff during certification of vapor recovery equipment designed for use with aboveground storage tanks (ASTs). Amendments to these test procedures will address technical deficiencies that staff has encountered during field testing, and will allow staff to make use of improved test equipment that is now available. Minor reorganization of, and amendment to these test procedures will also improve clarity and readability.
2. Revise the certification procedure and three test procedures for equipment used on cargo tanks to control gasoline vapor emissions. Revisions to these certification procedures would no longer require cargo tank vapor recovery equipment to be certified by ARB. However, cargo tank owners/operators will still be required to meet annual testing requirements. Test procedures are being revised to be more consistent with federal Department of Transportation requirements.

**CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS**

The proposed amendments are neither inconsistent nor incompatible with existing state regulations.

## **COMPARABLE FEDERAL REGULATIONS**

For GDFs, there are no federal regulations that are directly comparable to California's EVR program. However, federal regulations do require certain jurisdictions not in attainment with air quality standards to adopt control measures that will help bring them into attainment. Some other states mandate the installation of vapor recovery systems at gasoline dispensing facilities, and changes to ARB Enhanced Vapor Recovery (EVR) certification requirements may have a national and international impact.

For cargo tanks, federal standards comparable to California's Cargo Tank Vapor Recovery Certification Program standards can be found in 40 CFR Part 63 Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations). Due to the severe and unique air pollution problems facing California, ARB test procedures are more stringent than comparable federal standards.

## **AVAILABILITY OF DOCUMENTS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Initial Statement of Reasons for Rulemaking Amendments to Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities (Service Stations) and Cargo Tanks*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on 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, First Floor, Sacramento, California, 95814, (916) 322-2990, on June 5, 2013.

## **Final Statement of Reasons Availability**

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 ARB's website listed below.

## **AGENCY CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Scott Bacon at (916) 322-8949, or Mr. George Lew at (916) 327-0900. Further, the agency representative and designated back-up contact persons, to whom non-substantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff 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.

**Internet Access**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2013/cargo2013/cargo2013.htm>

**DISCLOSURES REGARDING THE PROPOSED REGULATION**

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.

**Fiscal Impact/ Local Mandate**

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 local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE**

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.

**STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT PREPARED PURSUANT TO GOVERNMENT CODE SEC. 11346.3(b)**

**Effect on Jobs/Businesses:**

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.

*Benefits of the Proposed Regulation:*

Revision of these vapor recovery test procedures will provide greater clarity to inspectors conducting these tests, provide for consistency with federal Department of Transportation requirements, benefit Cargo Tank operators who must meet these requirements.

**EFFECT ON SMALL BUSINESS**

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposal is administrative in nature and does not impose any new requirements on individuals who own, operate, or work with vapor recovery systems.

**HOUSING COST**

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

**ALTERNATIVES**

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, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**ENVIRONMENTAL ANALYSIS**

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Section IV of the Initial statement of Reasons.

**SUBMITTAL OF COMMENTS AND WRITTEN COMMENT PERIOD**

Interested members of the public may present comments orally or in writing at the meeting and may provide comments by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on June 10, 2013. To be considered by the Board, written comments not physically submitted at the



meeting, must be submitted on or after June 10, 2013, and received no later than 12:00 noon on July 24, 2013, and must be addressed to the following:

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>

You can sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to:  
<http://www.arb.ca.gov/board/online-signup.htm>.

Please note that under the California Public Records Act (Gov. Code, § 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.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to 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.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

### **STATUTORY AUTHORITY AND REFERENCES**

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 25290.1.2, 39600, 39601, 39607, 41954 and 41962. This action is proposed to implement, interpret, and make specific sections 25290.1.2, 39515, 39516, 39605, 39607, 41952, 41954, 41956.1, 41959, 41960, 41960.2 and 41962.

### **HEARING PROCEDURES**

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

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 adopt 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 and 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 ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

### **SPECIAL ACCOMMODATION REQUEST**

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

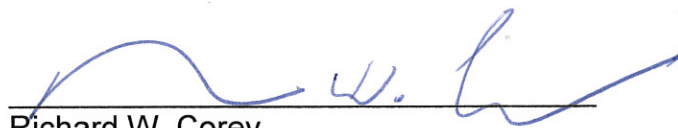
TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey  
Executive Officer

Date: May 28, 2013

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.arb.ca.gov](http://www.arb.ca.gov).*