

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO CERTIFICATION PROCEDURES FOR VAPOR RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES: ABOVEGROUND STORAGE TANKS AND ENHANCED CONVENTIONAL NOZZLES

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 (GDF).

DATE: April 23-24, 2015

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., April 23, 2015, and may continue at 8:30 a.m., on April 24, 2015. This item may not be considered until April 24, 2015. Please consult the agenda for the hearing, which will be available at least 10 days before April 23, 2015, 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 amendments to California Code of Regulations, title 17, sections 94010, 94011, and 94016, and proposed adoption of new section 94017.

Documents Incorporated by Reference:

The following documents are proposed for amendments and incorporated by reference in California Code of Regulations, title 17, sections 94010, 94011, 94016, and 94017.

1. Definitions for Vapor Recovery Procedures (D-200), last amended January 9, 2013 (Section 94010).
2. Certification Procedure (CP-201) – Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities, last amended January 9, 2013 (Section 94011).
3. Certification Procedure (CP-206) – Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks, last amended May 27, 2014 (Section 94016).

The following document is a newly-proposed ARB-drafted document that will be incorporated by reference into the Vapor Recovery Systems at Gasoline Dispensing Facilities Regulation.

4. Proposed New Certification Procedure (CP-207) – Certification Procedure for Enhanced Conventional (ECO) Nozzles and Low Permeation Conventional Hoses for Use at Gasoline Dispensing Facilities (Section 94017).

Summary of Current Laws, Background, and Effect of the Proposed Rulemaking:

California's existing vapor recovery laws control emissions associated with the storage and transfer of gasoline from storage tanks at terminals or bulk plants to tanker trucks, from tanker trucks to storage tanks at gasoline dispensing facilities (GDF), and from GDF tank to the vehicle's fuel tank during vehicle fueling. ARB and the air pollution control/air quality management districts (air districts) share responsibility for implementing the vapor recovery program. ARB staff certifies prototype vapor recovery systems installed at operating GDFs. 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 staff is now proposing to make amendments to several of the current vapor recovery certification procedures, and proposes adoption of a new certification procedure for enhanced conventional nozzles.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments to the certification procedures would:

1. Adopt new performance standards and specifications for nozzles used at non-retail GDFs that have been excluded by the air districts from Phase II vapor recovery, because they fuel a fleet of newer vehicles that process gasoline vapors on-board the vehicles (on-board refueling vapor recovery or ORVR). Establishing standards and specifications for these nozzles, which are referred to as Enhanced Conventional Nozzles (ECO Nozzles), would promote consistency statewide and yield further reductions in emissions.
2. Amend requirements to allow for the continued use of pre-Enhanced Vapor Recovery Phase I systems on certain aboveground storage tanks until the end of the useful life of those systems, thereby improving cost-effectiveness while achieving emission reductions in areas where they are most needed.
3. Clarify existing requirements for manufacturers of vapor recovery equipment used on underground storage tanks, aboveground storage tanks, and ORVR fleet fueling facilities. These clarifications would better allow ARB staff to ensure that mass-produced vapor recovery equipment matches the performance standards and specifications of the equipment as evaluated during ARB certification.

DETERMINATION OF INCONSISTENCY AND INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing the proposed regulatory action, ARB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations that are directly comparable to California's Enhanced Vapor Recovery (EVR) program for ASTs, and there are no federal regulations establishing a maximum allowable spillage rate from gasoline dispensing nozzles that refuel ORVR vehicles. However, U.S. EPA has promulgated federal regulations mandating GDFs in certain areas outside of California to install Stage I systems that are similar to the Phase I systems certified by ARB. Other states or countries often require the installation of vapor recovery systems certified by ARB. Thus, changes to ARB EVR certification requirements may have a national and international impact.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

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 Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities: Aboveground Storage Tanks and Enhanced Conventional Nozzles*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout 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 March 3, 2015.

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 to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. 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/2015/vapor2015/vapor2015.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 regulatory action 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 create overall savings to both State and local agencies.

Overall, Staff estimates the proposed regulatory action would save local governments about \$1,102,566 over five years. Staff estimates the statewide saving associated with the proposed regulatory action would be about \$424,085 for state agencies over five years. Depending on each regulated entity's particular circumstances, the ECO Nozzle component of the proposed regulatory action could create some additional costs for local governments and school districts that maintain their own fleet of vehicles and which are currently allowed to operate with uncertified conventional nozzles. The potential costs and savings associated with the proposed regulatory action are described in greater detail in the ISOR and Appendix G to the ISOR. If any local government or school district's costs increase as a result of the proposed regulation, those costs would not be reimbursable under Government Code 17500 et seq. This is because the proposed regulatory action would apply generally to all entities in the state with equipment that is subject to the regulation. So while the proposed regulations would impose a mandate on local agencies (and potentially on school districts), the proposed regulatory action would not result in a reimbursable state-mandated program.

The proposed regulatory action would not create any cost or savings in federal funding to the state.

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.

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. Certain businesses that own aboveground storage tanks may experience a savings as a result of the proposed regulation, which would delay the existing requirement to install an EVR Phase I system. The savings is estimated to be an average of \$1,705 per affected AST,

achieved through deferred compliance costs and the avoidance of capital losses. Businesses that operate a fueling facility that serves a private fleet of vehicles equipped with on-board refueling vapor recovery (ORVR) may experience a cost of \$335 or a savings of \$920 over five years as a result of the ECO Nozzle provisions of the proposed regulation. Whether a cost or savings occurs is dependent on what type of dispensing equipment is currently required at the affected facility.

Result of the Economic Impact Analysis/Assessment Prepared Pursuant to Government Code Section 11346.3(b)

Effects 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:

The proposed regulation would improve cost effectiveness of the current Phase I EVR requirement for aboveground tanks, while retaining emission reductions where most needed. The proposed ECO Nozzle regulation would result in a cost savings and reduced emissions. A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion on page 2, of this notice. A detailed assessment of the cost savings of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

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 result in a savings for affected small businesses that own aboveground storage tanks. Staff expects approximately 233 ASTs owned by small businesses would be affected by the proposal. These businesses are expected to save approximately \$1,705 each, for a statewide total of \$397,265. No small businesses are expected to be affected by the ECO Nozzle proposal.

Housing Costs

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. ARB staff considered alternatives to the proposed amendments, as described in section VII of the Initial Statement of Reasons.

Environmental Analysis

ARB, as the lead agency for the proposed regulatory action, has prepared an environmental analysis (EA) under its certified regulatory program (Cal. Code Regs., tit. 17, §§60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA determined that the proposed regulatory action would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Section IV of the ISOR. Written comments on the EA will be accepted during a 45-day public review period starting on **March 6, 2015** and ending at **5pm on April 20, 2015**.

SUBMITTAL OF COMMENTS AND WRITTEN COMMENT PERIOD

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on Friday, March 6, 2015. To be considered by the Board, written comments not physically submitted at the meeting, must be submitted on or after March 6, 2015, and received no later than 5:00 pm on April 20, 2015, 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>

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.

AUTHORITY AND REFERENCES

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

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

Consistent with California Government Code Section 7296.2, special accommodation or language needs may 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.

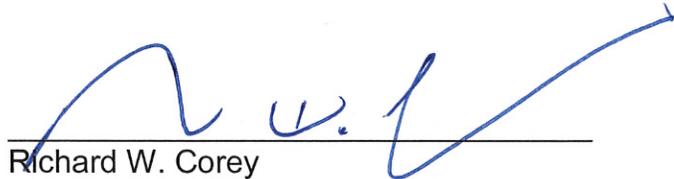
TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo 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: February 17, 2015