

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

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

A public hearing will be conducted at the time and place noted below by the Executive Officer of the Air Resources Board (ARB or Board), or by an ARB staff member designated by her, to consider an emergency 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 emergency amendment is proposed to mitigate the impact of Hurricane Katrina on California gasoline supplies.

Date	September 8, 2005
Time	9:00 a.m.
Place	California Environmental Protection Agency Air Resources Board Coastal Hearing Room, Second Floor 1001 I Street Sacramento, CA 95814

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service

To participate by teleconference, dial (888) 677-5720 and give the pass code: 54175 and leader name: Dean Simeroth.

DESCRIPTION OF PROPOSED AMENDMENTS

Section Affected: Proposed amendments to sections 2262 and 2262.4, title 13, California Code of Regulations (CCR).

Background: One of ARB's requirements for California gasoline is that it is subject to a RVP maximum cap limit of 7.20 pound per square inch (psi) and flat limits of 7.00 or 6.90 psi during regulatory control periods in the warmest months when ozone concentrations are higher. The regulatory control period ends October 31 in most of the state including all of its urban areas; it ends September 30 in the remainder of the state. The RVP of gasoline is a measurement of its propensity to evaporate. In order to meet

the summertime RVP standard, refiners typically remove higher-RVP butanes and pentanes from gasoline blends.

Hurricane Katrina, which hit the Gulf Coast on August 29, 2005, has had very significant impact on the nation's oil production and refining industries. In the week since the storm hit, supplies of transportation fuels have been strained in the Southeast, Midwest and Atlantic states. As a result the national retail prices for a gallon of regular gasoline are reported to have risen 45 cents to \$3.06. Prices in California have also gone up by 27 cents to \$3.05. Wholesale prices for gasoline have risen even more.

Although it is not known how long it will take to restore production capacity, there is virtual certainty that it will be at least several weeks before production recovers and/or replacement products can be imported. In the meantime, supplies in the east will likely be low, shortages may occur and high prices will persist.

As one response to this situation, on August 31, 2005 the U.S. Environmental Protection Agency (U.S. EPA) waived immediately the federal RVP limits for gasoline, which applied through September 15, to allow greater production of gasoline. The agency also waived a provision of the federal diesel fuel regulations to permit more flexible use of diesel in the affected areas. These U.S. EPA actions did not modify state regulations in effect in California.

Although West Coast refinery capacity and crude imports were not affected by Hurricane Katrina, the ability of those refineries to fully supply California and the surrounding states is very dependent on imports from the U.S. Gulf Coast and Europe. Approximately ten percent of the fuel needed for the California transportation market is imported via tanker from these regions. Given the supply shortfalls and high prices in other U.S. regions, California is now expected to lose these imports for a period of between six and eight weeks.

Because of this situation, both the CEC and several refiners have requested that ARB take emergency action to relax pollution control rules to enable gasoline production increases by California refineries. Specifically, ARB has been asked to allow an early transition from summertime low-RVP gasoline to wintertime formulas.

The proposed emergency amendments. At the hearing, the Executive Officer or her designee will consider emergency amendments that would substitute a 9.0 psi RVP standard for the current flat and maximum cap RVP limits, applicable from the effective date of the amendments through the end of the 2005 RVP season (October 31, 2005 in most of the state including its major urban areas, and September 30, 2005 in the remaining four air basins). Increasing the flat and cap limits from 6.9 and 7.2 to 9.0 and 9.0 respectively will allow refiners the option to produce California gasoline with up to 9.0 psi RVP. For those refiners not wishing to use the full 9.0 psi RVP allowable, they may produce a fuel with a lower RVP and use the associated reduction in evaporative hydrocarbon emissions to adjust other fuel parameters to optimize production of California gasoline and fully use the available blendstocks without an increase in the

ozone forming potential above what would be associated with a 9.0 psi RVP California gasoline. By increasing only the flat limit for RVP, the limitation on the emissions of NOx and toxics will remain the same.

Other changes in the ARB's gasoline rules or to diesel fuel rules are not being proposed at this time, principally because they would have adverse environmental impacts but would not be expected to provide for significantly greater fuel production.

Basis for emergency action. Under the California Administrative Procedure Act and state regulations, state agencies are normally required to submit a hearing notice to the Office of Administrative Law (OAL) at least 55 days before a hearing to amend a regulation, so that it can be published in the California Notice Register at least 45 days before the hearing. However, an agency is authorized to amend a regulation on an emergency basis without following the regular procedural requirements upon a finding that the amendment "is necessary for the immediate preservation of the public health and safety or general welfare." OAL has an abbreviated 10-day period to review the amendment after it is submitted by the adopting agency, and the amendment may go into effect immediately after it is approved by OAL and filed with the Secretary of State. An amendment adopted on an emergency basis may remain in effect for no more than 120 days unless the adopting agency complies with the procedural requirements for a normal amendment. (Government Code section 11346.1.)

A finding of emergency would be based on information from the CEC and others on the likely impacts on California gasoline supplies and prices if the RVP standard were not relaxed. Based on currently available information, it appears unlikely that the needed supplies to make up the six to eight week loss of imports of gasoline and blend components from the Gulf Coast and Europe can be obtained from other sources. As a result, there will be a substantial period during which California and its neighboring states will need to largely rely on in-state production for gasoline supplies. Unless steps are taken to increase in-state refinery production, by mid-September California's gasoline supply could be between five and ten percent below expected demand, in which case very large price increases would be needed to balance demand with supply.

The emergency amendments would allow as much as a nine percent increase in gasoline production, to occur almost immediately. This relief is, by far, the most effective action that could be taken to address the current supply situation.

Adverse environmental impacts. The emergency amendments would temporarily result in a significant increase in emissions from gasoline powered vehicles during the last month and a half of the state's smog season. 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 50 tons per day. The increase in total smog forming emissions from all sources would be about 1.3 percent, 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 are still common during these months in two areas – the eastern portions of the South Coast Air Basin and parts of the San Joaquin Valley.

At the hearing, the Executive Officer or her designee will consider alternatives that could be pursued to lessen the adverse environmental impacts.

The Executive Officer is prepared to make a decision whether an emergency situation exists justifying emergency amendments soon after the hearing. If a decision to amend the regulations is made, ARB staff will seek immediate approval of the amendments by the Office of Administrative Law so that increased production can occur as soon as possible.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The staff has prepared a Staff Report which describes the need for the amendments and includes a summary of the environmental and economic impacts of the proposal. Copies of the Staff Report and of 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 the 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, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons, Mr. Steve Brisby, Manager, Fuels Section, (916) 322-6019, or Mr. Dean C. Simeroth, Chief, Criteria Pollutants Branch, Stationary Source Division, at (916) 322-6020.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. 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 proposed regulatory amendment,, and all subsequent regulatory documents are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/rvp2005/rvp2005.htm>

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail or facsimile before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received by ARB **no later than 5:00 p.m., September 7, 2005**, and addressed to the following:

Electronic mail is to be sent to: rvp2005@listserv.arb.ca.gov .

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). This regulatory action is proposed to implement, interpret, and make specific sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HEARING PROCEDURES

At the hearing, all parties wishing to testify will be given an opportunity to do so, although the Executive Officer or her designee may limit the time allotted each party if necessary. Following the hearing, the Executive Officer or her designee may make the necessary emergency findings if supported by the record, and adopt the emergency amendment as proposed or with appropriate modifications. The final amendment will be posted on the ARB's Internet site for this rulemaking. The public may request a copy of the final amendment from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/

Catherine Witherspoon
Executive Officer

Date: September 6, 2005