TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO VAPOR RECOVERY CERTIFICATION AND TEST PROCEDURES FOR UNDERGROUND AND ABOVEGROUND STORAGE TANKS INCLUDING GASOLINE DISPENSING FACILITY HOSE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to regulations for vapor recovery certification and test procedures for underground and aboveground storage tanks used at gasoline dispensing facilities (service stations and similar facilities); and adoption of a gasoline dispensing facility dispensing hose regulation.

DATE: September 22, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
Sacramento, CA 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., September 22, 2011, and may continue at 8:30 a.m., September 23, 2011. Please consult the agenda for the meeting, which will be available at least ten days before September 22, 2011, to determine the time when this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 94010, 94011, 94016, 94150, and 94168, title 17, California Code of Regulations (CCR), which incorporate by reference vapor recovery definitions, certification procedures, and test procedures. The following documents are referenced in the regulations: *Definitions for Vapor Recovery Procedures*, D-200, last amended May 2, 2008; *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*, CP-201, last amended May 25, 2006; *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks,* CP-206, adopted May 2, 2008; *Volumetric Efficiency for Phase I Vapor Recovery Systems*, TP-201.1, last amended October 8, 2003; *Efficiency and Emission Factor for Phase II Systems*, TP-201.2, last amended May 2, 2008; *Determination of the Vehicle Matrix for Phase II* Systems, TP-201.2A, last amended February 1, 2001; *Test Procedure for In-Station Diagnostic* Systems, TP-201.2I, last amended May 25, 2006; *Pressure Drop Bench Testing of Vapor Recovery* Components, TP-201.2J, adopted October 8, 2003; *Determination of 2 Inch WC Static Pressure performance of Vapor Recovery Systems of Dispensing Facilities*, TP-201.3, last amended March 17, 1999; and *Determination of Static Pressure Performance of Vapor*

Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks, TP-206.3, adopted May 2, 2008.

Background: ARB authorizes the sale, installation, and use of vapor recovery equipment at service stations, also referred to as gasoline dispensing facilities (GDF), through a certification program. Vapor recovery is a necessary element in reducing smog-forming hydrocarbon emissions (gasoline vapor) and mitigating exposure to benzene, a constituent of gasoline vapor that ARB has identified as a toxic air contaminant. These reductions and controls play an important role in protecting public health and achieving clean air.

In March 2000, ARB approved Enhanced Vapor Recovery (EVR) regulations for vapor recovery equipment used for underground storage tanks (UST). EVR regulations established new performance standards and specifications for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs. EVR regulations were subsequently amended by the Board in 2001, 2002, 2004, and 2006 in part to update the regulations in response to new vapor recovery control technology, and to improve the applicability and accuracy of test procedures used for certifying vapor recovery equipment and for compliance determination on in-use equipment.

In June 2007, ARB approved EVR regulations for aboveground storage tanks (AST). These regulations established new performance standards and specifications for vapor recovery systems for AST, which further reduce emissions during the storage and transfer of gasoline. AST EVR regulations generally mirrored EVR regulations for USTs with a few exceptions.

Staff's Proposal:

New Definition of Effective Date for Starting "The Four Year Clock" – ARB staff worked with the California Independent Oil Marketers Association (CIOMA) and other industry representatives to develop revised language clarifying a statutory provision providing owners of existing GDFs four years to replace their current equipment when new or amended standards and specifications become effective. In the past, there was some confusion when no system was certified to meet a new performance standard by an actual calendar date specified in the regulations – the effective date. At the time of adoption of the regulations, that date represented ARB staff's best available estimate for certification of the first system. In actuality, unexpected delays in the development and certification of compliant systems meant that new and modified GDFs could not meet the regulatory requirements by the effective date specified in the regulations. This led to ambiguity and forced ARB to repeatedly revise and delay the effective date, first through administrative actions by the Executive Officer and then by Board approval of the Executive Officer's action through a formal rulemaking process. Therefore, to address this situation, staff is proposing changes to CP-201 and CP-206 to clarify that the "*effective date*" is now the date when the first system meeting the applicable new

performance standards is certified by ARB, and this new effective date starts the "*four-year clock*" provision for affected GDFs. Additionally, staff is proposing to add a provision that allows the public to petition the Executive Officer to exempt certain subgroups of facilities where the first certified system is incompatible.

Amendments, Revisions, and Other General Editorial Improvements - ARB staff is also proposing a number of amendments to D-200 (*Vapor Recovery Definitions*),
CP-201 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*),
CP-206 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks)*, and the following test procedures to improve their clarity and readability.

1. *Volumetric Efficiency for Phase I Vapor Recovery Systems*, TP-201.1,
2. *Efficiency and Emission Factor for Phase II Systems*, TP-201.2,
3. *Determination of the Vehicle Matrix for Phase II* Systems, TP-201.2A,
4. *Test Procedure for In-Station Diagnostic* Systems, TP-201.2I,
5. *Pressure Drop Bench Testing of Vapor Recovery* Components, TP-201.2J,
6. *Determination of 2 Inch WC Static Pressure performance of Vapor Recovery Systems of Dispensing Facilities*, TP-201.3, and
7. *Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.3.

New Evaporative Emission Standard for Fuel Hoses - Lastly, ARB staff is proposing a new performance standard for GDF fuel dispensing hoses that would limit the permeation rate of gasoline to no more than ten grams per square meter per day as determined per Underwriters Laboratory standards (UL 330, 7th Ed. - Standard for Hose and Hose Assemblies for Dispensing Flammable Liquids). The proposed standard applies to fuel hoses which carry liquid gasoline against the outermost hose wall. This proposal is expected to reduce gasoline permeation by 96 percent using technology that has been demonstrated in other applications by several hose manufacturers. The proposed standard applies to about 70 percent of GDFs in operation in California and will generate net savings to California consumers from gasoline fuel saved.

The "effective date" provision for this new hose emission standard and the "four year clock" for affected GDFs apply as described above. That is, the "effective date" for the affected GDF is the date when the first hose meeting the new performance standard is certified by ARB. All affected GDFs will have four years to comply from the "effective date." Exceptions to the "four-year clock" provision include new installations that are permitted after the "effective date" and existing facilities undergoing a major modification. In both cases, compliance with the new hose requirements is expected upon completion of installation or facility modifications. In addition, any affected facility would be required to comply if a hose or hoses are replaced after the "effective date."

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. California certification is also sought after for international applications.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

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: "Hearing Notice and Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Adoption of Amendments to Vapor Recovery Certification and Test Procedures for Underground and Aboveground Storage Tanks Used at Gasoline Dispensing Facilities Including Gasoline Dispensing Facility Hose Regulation."

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 August 3, 2011. 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. Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Scott Bacon at (916) 322-8949, Mr. Jason McPhee at (916) 322-8116, or Mr. George Lew, Monitoring and Laboratory Division at (916) 327-0900.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit at (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator at (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, ISOR and all subsequent regulatory documents, including FSOR, when completed, are available on ARB's website for this rulemaking at:

http://www.arb.ca.gov/regact/2011/evr11/evr11.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.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and 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. Although not quantifiable, cost savings may be realized by GDF owners and vapor recovery equipment manufacturers from the following:

1) Proposed changes to the certification procedures for vapor recovery systems of underground and aboveground storage tank facilities, ensuring a full four years for existing GDFs to replace their existing equipment once a system is certified, which is consistent with the intent of the four year clock for equipment replacement.
2) Proposed changes to the certification and test procedures will improve clarity and readability.

In addition, adoption of GDF hose regulation results in a small, quantifiable net cost saving to California consumers from fuel waste avoided by the hose regulation. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

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 impose a mandate on state agencies, local agencies, and school districts that operate GDF's subject to the proposed fuel hose permeation requirements. However, the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs 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. The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action affects small businesses.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action does 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.

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

Interested members of the public may also present comments orally or in writing at the meeting and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on **August 8, 2011**. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after **August 8, 2011,** and received **no later than 12:00 noon on September 21, 2011**, 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

New Feature

You can now 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. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least ten 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 to ARB in Health and Safety Code, sections 25290.1.2, 39600, 39601, 39607, and 41954. This action is proposed to implement, interpret, or make specific Health and Safety Code, sections 25290.1.2, 39515, 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 nonsubstantial 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 (i.e., Braille, large print, etc.) or another language;
- 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 ten 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 (por decir, sistema Braille, o en impresión grande) 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

James N. Goldstene
Executive Officer

Date: July 26, 2011