

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE PORTABLE FUEL
CONTAINER REGULATIONS**

Public Hearing Date: September 15, 2005
Public Availability Date: April 6, 2006
Deadline for Public Comment: April 21, 2006

At its September 15, 2005 public hearing, the Air Resources Board (the Board) approved amendments to title 13, California Code of Regulations (CCR), sections 2467, 2467.1, 2467.2, 2467.3, 2467.4, 2467.5, 2467.6, and 2467.7, repealed section 2467.8, and adopted new sections 2467.8 and 2467.9.

At the hearing, the Board adopted staff's recommendation to adopt two separate Resolutions for this rulemaking. As detailed in the staff report and in staff's presentation before the Board, this rulemaking is comprised of two components. The first component primarily consists of amendments specifying that kerosene containers and utility jugs (large capacity plastic containers) used to store and dispense fuel and kerosene are subject to the Portable Fuel Container (PFC) regulations. The Board adopted these amendments in Resolution 05-50 as proposed, and as discussed below they are now in effect. The second component consists of amendments that establish a mandatory portable fuel container certification program, that modify existing test procedures and establish new ones, and that amend existing spout requirements to improve usability. The Board approved these amendments in Resolution 05-54. Only the amendments covered by Resolution 05-54 are addressed in this notice.

In Resolution 05-54, the Board approved the proposed amendments with modifications to the originally proposed text. The approved modifications reflected the staff's suggested modifications which were made available at the hearing and appended to the Resolution as Attachment C. Resolution 05-54 directed the Executive Officer to incorporate the approved modifications into the proposed regulatory text and the documents incorporated by reference therein – Test Methods 510-512, Certification Procedure 501, and Test Procedures 501 and 502 – along with such other conforming modifications and technical amendments as may be appropriate, and to make such modifications available for a supplemental comment period of at least 15 days.

Attachment 1 to this notice contains the text of title 13, CCR, section 2467.1, "Definitions," showing the modifications to the originally proposed regulatory language. This is the only regulatory section for which modifications are being proposed. The other attachments are Attachment 2, Certification Procedure CP-501, Attachment 3,

TP-501, “Test Procedure for Determining Integrity of Spill-Proof Spouts and Spill-Proof Systems,” and Attachment 4, TP-502, “Test Procedure for Determining Diurnal Emissions from Portable Fuel Containers,” each showing the proposed modifications. The modifications are shown in double underline to indicate additions to the original proposal and ~~bold double strikeout~~ to indicate deletions. The modifications to the regulation and associated test procedures are explained in greater detail below.

The text of title 13, CCR, section 2467.1 in Attachment 1 includes as part of the preexisting text the amendments to that section that were part of the first component of the rulemaking and are already in effect. During review of those amendments by the Office of Administrative Law, the Executive Officer made nonsubstantial modifications to three of the definitions in section 2467.1. The modifications to the definition of “portable fuel container” indicated that the federal regulation being incorporated by reference – 49 Code of Federal Regulation Section 172.407 – is subsection (a) of that regulation as it existed at the date of the hearing, September 15, 2005. The modifications to the definitions of “spill proof spout” and “spill-proof system” added references to the requirements in section 2467.5.

I. Modifications to Regulatory Text of Title 13, CCR, Section 2467.1, “Definitions,” Being Made Available for Comment

A. Addition of definitions of “automatic closure” and “automatically close”

As directed by the Board, the modifications being made available add definitions of the terms, “automatic closure” and “automatically close” in section 2467.1, “Definitions.” These terms are used in other sections of the regulation and in the certification and test procedures to determine compliance with the automatic closure requirement.

B. Modification of the definition of “spout” to allow for spout extensions (funnels)

As directed by the Board, the definition of “spout” in title 13 CCR section 2467.1(a) reflects a modification that allows the use of spout extensions (funnels) in fueling applications that would benefit from longer or more flexible spout tips. The modification explicitly exempts funnels from the definition of “spout”, and from the applicability provisions (title 13 CCR sections 2467(a) and (b)) of the portable fuel container and spouts regulation. The modification therefore clarifies that the regulation does not apply to funnels.

II. Modifications to Certification Procedure 501 (CP-501)

A. Clarify that Portable Fuel Containers Differing Only in Color May be Considered for Certification as a Single Product Family

CP-501 section 2.3(c) allows portable fuel containers to be tested as a product family

under certain situations. As directed by the Board, section 2.3(c) has been modified to clarify that portable fuel containers that differ only in color may be considered for certification as a single product family.

B. Clarify that Portable Fuel Container Manufacturers Need Only List Equipment Types That Their Products are not Specifically Intended to Fuel

As directed by the Board, section 2.8(a) has been amended to clarify that portable fuel container manufacturers need only provide a list of specific equipment types that their products are specifically not intended to fuel, instead of a list of specific equipment types that their products may be used to refuel.

C. Clarify Automatic Closure Requirement of Certification Procedure CP-501

As directed by the Board, Table 2-1 of Certification Procedure CP-501 has been modified to clarify that the automatic closure requirement requires a spill-proof system or spill-proof spout to close and seal when it is not dispensing fuel, instead of when the spill-proof system or spill-proof spout is removed from the tank.

D. Clarify that a Different Vendor of a Portable Fuel Container Component Does Not Require a Recertification Provided there are no Changes to the Design or Material Specifications

As directed by the Board, section 3.11(b) has been modified to clarify that a portable fuel container manufacturer is not required to recertify its products if it uses a different vendor for a previously certified component, provided that component does not differ in design or material specifications from the previously certified component.

III. Modifications to Test Procedure 501

Clarify Automatic Closure Test Procedure

As directed by the Board, section 7.3 has been amended to clarify that in conducting the automatic closure test, after water has been dispensed until the tip of the spill-proof spout is immersed in water, the portable fuel container's automatic closure feature must be engaged before the container is removed from the test fixture. It is no longer necessary to lift the container before engaging the automatic closure feature.

IV. Changes to Test Procedure 502

Trip Blank Requirements

As directed by the Board, section 8 has been modified to clarify that a trip blank is required when preconditioning a portable fuel container at elevated temperatures.

Staff is also proposing conforming modifications to section 8 in addition to the modifications to section 8 previously set forth in Attachment C to Resolution 05-54. Staff's additional modifications are set forth fully in Enclosure 4 to this notice, Proposed Additional Modifications to Test Procedure TP-502, "Test Procedure for Determining Emissions from Portable Fuel Containers".

The regulatory documents for this rulemaking, including Resolutions 05-50 and 05-54, are available online at the following ARB internet site:

<http://www.arb.ca.gov/regact/pfc/2005/pfc2005.htm>

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the amendments to sections 2467, 2467.2, 2467.3, 2467.4, 2467.5, 2467.6, 2467.7, the repeal of section 2467.8, and the adoption of new sections 2467.8 and 2467.9, title 13, CCR, after making the modified text available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments on the modifications approved by the Board may be submitted by postal mail, electronic mail, or facsimile as follows:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic submittal : <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submissions are to be transmitted to: (916) 322-3928

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received by the ARB by 5:00 p.m. on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

Attachments