

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE LIST OF EQUIPMENT DEFECTS THAT SUBSTANTIALLY IMPAIR THE EFFECTIVENESS OF GASOLINE VAPOR RECOVERY SYSTEMS

The Executive Officer of the Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the list of defects substantially impairing the effectiveness of vapor recovery systems used in motor vehicle refueling operations. The list of defects is incorporated by reference into title 17 of the California Code of Regulations, section 94006, and is otherwise known as the Vapor Recovery Equipment Defects (VRED) List. Such defects are sufficiently egregious to warrant the removal of the fueling point from service until the defect is repaired.

DATE: August 24, 2004

TIME: 10:30 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Coastal Hearing Room, 2nd Floor
1001 I Street
Sacramento

The public hearing will be conducted by the Executive Officer pursuant to the authority set forth in sections 39515 and 39516 of the Health and Safety Code.

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 go to <http://inside.arb.ca.gov/as/eo/languageaccess.htm> or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment to section 94006(b), title 17, California Code of Regulations (CCR) and the VRED List (adopted September 23, 2002) that is incorporated by reference therein. Staff is recommending that the Executive Officer approve the proposed amendments to the VRED List as described herein.

Background: Section 41960.2 of the Health and Safety Code (HSC) requires the ARB to: 1) identify and list equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations that substantially impair the effectiveness

of the systems in reducing air contaminants, and 2) periodically update the list to reflect changes in equipment technology or performance. The initial list of defects was developed in 1982 and then most recently updated in 2002. Amendments to the VRED List incorporated by reference into title 17 CCR, section 94006, are being proposed in this regulatory action in order to clarify several of the listed defects and improve the effectiveness of the vapor recovery program by enhancing the ability of enforcement personnel and gasoline dispensing facility (GDF) operators to identify and repair those defects that could significantly impact the effectiveness of the vapor recovery system. Inspectors from local and regional air pollution control districts and air quality management districts periodically inspect GDFs to ensure they are in good working order. When a component on the VRED List is documented by an inspector to contain a listed defect, the equipment must be removed from service until it has been replaced, repaired, or adjusted and reinspected by air pollution control district personnel (HSC section 41960.2(d)).

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report/Initial Statement of Reasons (ISOR) for the proposed action, which includes a detailed explanation of the amendment and summary of the potential environmental and economic impacts of the proposal. The report is titled "Initial Statement of Reasons for Amendments to the List of Equipment Defects that Substantially Impair the Effectiveness of Gasoline Vapor Recovery Systems."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be obtained from the ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (August 24, 2004).

After the public hearing and upon completion of the rule amendment process, the Final Statement of Reason (FSOR), which includes responses to significant issues raised by commentors, will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed in this notice.

Inquiries concerning the substance of the proposed regulations should be directed to Ranjit Bhullar, Manager, Vapor Recovery In-Use Program Section, Stationary Source Testing Branch, Monitoring and Laboratory Division, at (916) 322-0223 or R. Neil Nipper, Air Resources Engineer, Vapor Recovery In-Use Program Section, Stationary Source Testing Branch, Monitoring and Laboratory Division, at (916) 445-9391.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator,

(916) 322-4011. 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 ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/vrdef02/vrdef02.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), 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 part 7 (commencing with section 17500), division 4, title 2 of the Government Code; or other non-discretionary costs or savings to local agencies.

The Executive Officer has also determined that adoption of the proposed regulatory action will 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. This determination is based on the fact that the proposed regulatory action establishes no new requirements, but rather clarifies existing defects. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR

In accordance with the California Administrative Procedure Act, Government Code section 11346.3(b), the Executive Officer has determined that adoption of the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, or the creation of new business, the expansion of business currently doing business within the State of California or the elimination of existing business within California.

The Executive Officer is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, since avoidance or repair of the listed defects is already required.

The Executive Officer has determined that pursuant to title 1, CCR, section 4, that the adoption of the proposed regulatory action does affect small business, making compliance with existing regulations easier by clarifying what the requirements are.

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the Executive Officer or that has

otherwise been identified and brought to the attention of the Executive Officer 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.

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 before the hearing. To be considered by the Executive Officer, written submissions not physically submitted at the hearing must be received no later than **12:00 noon, August 23, 2004**, and addressed 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 mail is to be sent to: vrdef02@listserv.arb.gov and received at the ARB by no later than **12:00 noon, August 23, 2004**.*

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, August 23, 2004**.

The Executive Officer requests, but does not require, 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff has time to fully consider each comment. The Executive Officer encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of ARB staff in advance of the hearing.

STATUTORY AUTHORITY

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, and 41960.2. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 41954 and 41960.2.

HEARING PROCEDURES

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

Following the public hearing, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other

modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, 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 the ARB's Public Information Office, Visitor and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

/s/
Catherine Witherspoon
Executive Officer

Date: June 29, 2004

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 Web-site at www.arb.ca.gov.