

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REGULATIONS FOR GASOLINE DISPENSING FACILITY HOSES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to regulations and certification procedure, and adoption of test procedures for gasoline dispensing facility hoses.

DATE: December 11, 2008

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., December 11, 2008, and may continue at 8:30 a.m., December 12, 2008. This item may not be considered until December 12, 2008. Please consult the agenda for the meeting, which will be available at least ten days before December 11, 2008, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to California Code of Regulations, title 17, section 94011. Proposed amendments to the incorporated "CP-201 Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," as last amended May 26, 2006, and adoption of "TP-201.8 Determination of the Permeation Rate from a Gasoline Dispensing Facility Hose."

Background: ARB staff is proposing a regulation (Appendix A) to control reactive organic gases (ROG) emitted from gasoline dispensing facility (GDF) hoses. These hoses are used for dispensing gasoline to vehicles and equipment at GDFs. The

proposed regulation would reduce gasoline permeation emissions from GDF hoses. By 2014, the proposed regulation will require that existing hoses be replaced with hoses that reduce permeation. Technology to control hose permeation will be similar to those used to control permeation emissions from small off-road engines (SORE) and portable outboard marine tanks (OMT).

If left uncontrolled, 1.5 tons per day (tpd) of gasoline vapors or ROG will be emitted from GDF hoses in California in 2014. This is equivalent to 172,000 gallons of gasoline evaporating into the air each year. Assuming \$3.50 per gallon of gasoline, the amount of fuel lost through permeation has a value of \$600,000 per year. The proposed regulation would reduce 2014 hose permeation emissions by 1.4 tpd of ROG, a reduction of over 90 percent. The cost effectiveness of implementing the regulation will be \$1.08 per pound of ROG reduced, based on 168,000 GDF hoses being replaced at a net cost of \$1.1 million.

There currently is no permeation standard for reducing emissions from GDF hoses at either the State or federal level. Staff has been working with fuel hose manufacturers, material manufacturers, the United States Environmental Protection Agency (U.S. EPA) and Underwriters Laboratories (UL) to develop the proposed performance standard. ARB staff proposes permeation emissions from GDF hoses to be limited to 10 grams per meter squared per day ($\text{g}/\text{m}^2/\text{day}$) when tested at a constant temperature of 38°C (100.4°F) with test fuel (CE-10).

The proposed regulation affects GDF hoses that are part of an ARB certified vapor recovery system, pursuant to CP-201 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*). Staff is proposing an effective date for the regulation of January 1, 2010. The effective date starts the four-year-clock for all existing GDFs, not undergoing major modification of their facilities, to replace existing GDF hoses with ARB certified low permeation GDF hoses no later than January 1, 2014.

Staff is proposing an operative date of January 1, 2011. The operative date is the date on which new GDFs, or existing GDFs undergoing major modifications, are required to use ARB certified low permeation GDF hoses. The reason for the difference is to allow balance GDF hose manufacturers an extra year to develop and certify low permeation GDF hoses. It should be noted that current regulations require existing facilities to use low permeation hoses upon replacement whenever ARB determines that such hoses are compatible and commercially available.

The proposed regulation includes amendments to the certification procedure, CP-201, that specifies the criteria and test procedures to be used by ARB staff to evaluate and certify GDF hoses.

ARB staff conducted three public workshops for stakeholders to address technical and policy issues. The workshops were held between November 2003 and July 2008. Also, since April 2007, ARB staff has been working with stakeholders, including U.S. EPA, in

a UL sponsored focus group to develop the proposed permeation test procedures. This group conducted over 20 meetings. ARB staff chaired the focus group and the meetings offered an additional forum to address stakeholder concerns. In working with the various stakeholders, ARB staff believes that the most significant issues raised by stakeholders have been resolved.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify low permeation GDF hoses; however, changes to ARB Enhanced Vapor Recovery (EVR) certification requirements may have national and international impacts. ARB certification is required by most other states and some countries that mandate the installation of vapor recovery systems at GDFs.

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 ISOR also includes the Performance Standard, Certification Procedures, and Test Procedures for Gasoline Dispensing Facility Hoses.

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, at least 45 days prior to the scheduled hearing on December 11, 2008.

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.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Jason McPhee, by phone at (916) 322-8116 or by e-mail at jmcphee@arb.ca.gov, or Mr. Dennis Goodenow, by phone at (916) 322-2886 or by e-mail at dgoodeno@arb.ca.gov.

Further, the agency representative and designated back-up contact persons, to whom non-substantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. 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 ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2008/gdfh2008/gdfh2008.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 by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

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 not create significant costs or savings 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 Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Manufacturers of GDF hoses are expected to pass cost increases on to GDF owners who will then pass the cost to consumers. Cost to the consumers will be partially offset by fuel savings realized from reduced fuel losses. As a result, staff anticipates a representative individual may incur small additional costs (as discussed in the ISOR) because of additional manufacturing costs.

Further, ARB staff has estimated possible costs of compliance for affected businesses. These estimates, and the bases for them, are also discussed in the ISOR.

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.

In accordance with Government Code section 11346.3, 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.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the regulation would affect manufacturers that are located outside California

and are currently providing low permeation hoses for other source categories that are compliant with similar performance standards for about half of the hose population. Any costs to small business that operate GDFs are expected to be offset by savings or recouped as described in the ISOR.

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.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written submissions not physically submitted at the meeting must be received **no later than 12:00 noon, December 10, 2008**, and addressed to the following:

Postal mail: 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 submittal: (916) 322-3928

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.

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully 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.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in sections 25290.1.2, 38560, 38560.5, 39600, 39601, 39607, 41954 of the Health and Safety Code. The action is proposed to implement, interpret and make specific sections 25290.1.2, 38560, 38560.5, 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety Code.

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 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.

CALIFORNIA AIR RESOURCES BOARD

James N. Goldstene
Executive Officer

Date: October 14, 2008

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 website at www.arb.ca.gov.