

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PORTABLE FUEL CONTAINER SPILLAGE CONTROL REGULATIONS

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adopting regulations to reduce emissions from the use of portable fuel containers, or "gas cans." The regulations are intended to reduce refueling emissions from equipment and engines in the off-road categories that are predominantly refueled with portable containers. The proposed regulations would establish a set of performance standards for portable fuel containers and spouts.

DATE: September 23, 1999

TIME: 9:30 a.m.

PLACE: Air Resources Board Hearing Room
Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m. on September 23, 1999, and may continue at 8:30 a.m. on September 24, 1999. This item may not be considered until September 24, 1999. Please consult the agenda for the meeting, which will be available at least 10 days before September 23, 1999, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact Mr. George Lew at (916) 327-0900 or Telecommunications Device for the Deaf (TDD) at (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area by September 9, 1999.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: Proposed adoption of sections 2470-2478, title 13, California Code of Regulations ("CCR"), and proposed adoption and incorporation by reference of "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," "Test Method 511, Automatic Closure Procedure For Spill-Proof Systems And Spill-Proof Spouts," "Test Method 512, Determination of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts," and "Test Method 513, Determination of Permeation Rate For Spill-Proof Systems."

Plain English Policy Statement Overview

Applicability

The proposed regulation would apply to all portable fuel containers and spouts manufactured for sale and use in California. The regulation is not intended to apply to single trip pre-packaged containers, nor portable containers that by their design or labeling are intended primarily for storing or transporting liquids or products other than fuel. The regulations are intended to reduce refueling emissions from those equipment and engines in the off-road categories that are predominantly refueled with portable containers. The proposal contains several exemptions, including exemptions for containers less than or equal to one quart, certain containers used in off-road motorcycle competitions, portable fuel tanks for operating outboard engines, safety cans, and containers and spouts intended for shipment and use outside California.

Performance Standards

The performance standards in the proposed regulations are divided into two sections, one specifically addressing spill-proof systems and one for spill-proof spouts for use on portable fuel containers.

Automatic Shut-off

The standard requires that the spout automatically stop the fuel flow before the equipment fuel tank overflows, while filling it to a prescribed level. The automatic shut-off performance standard applies to both spill-proof systems and spill-proof spouts. It is designed to eliminate the problem of over-filling spillage.

This performance standard also specifies a prescribed ‘fill-level’ of not less than one inch below the top of the target fuel tank. The ‘fill-level’ standard is necessary to ensure that the equipment fuel tank is filled to the maximum extent. The standard is designed to eliminate unnecessary refueling of under-filled equipment fuel tanks, and to promote customer satisfaction with the new products.

Automatic Closure

The standard requires that the spout automatically close when removed from the equipment fuel tank and remain closed when not dispensing fuel. The automatic closure performance standard applies to both spill-proof systems and spill-proof spouts. It is designed to reduce emissions from evaporation and potentially eliminate transport and storage losses that would otherwise occur in normal use.

One Opening

The standard requires that the container have only one opening for both filling and pouring. The one opening performance standard applies to spill-proof systems only. The standard is designed to ensure proper operation of the automatic shut-off feature, to reduce evaporative emissions, and to potentially eliminate transport and storage losses associated with secondary vents.

Fuel Flow Rate

The performance standard specifies three fuel flow rates that are a function of container capacity. These flow rates are: not less than one-half gallon per minute for portable fuel containers with a nominal capacity less than or equal to 1.25 gallons; not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.25 gallons but less than or equal to 2.5 gallons; and not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons. The fuel flow rate performance standard applies to both spill-proof systems and spill-proof spouts. The standard is designed to provide new products with a sufficient flow rate to satisfy the end user.

Permeation Standard

Approximately 75% of the residential population of portable fuel containers in California are made from a plastic substance known as High Density Polyethylene (HDPE). HDPE (plastic) portable fuel containers eventually become saturated with fuel and individual hydrocarbon molecules penetrate the plastic and find their way to the outside air. This process is called permeation. Saturation times are dependent upon temperature and container wall thickness and can occur in as little as 25 days.

The standard requires that the container not exceed a permeation rate of 0.4 grams per gallon per day as determined by Test Method 513. The permeation standard applies to spill-proof systems only and is designed to reduce emissions attributed to permeation from plastic portable fuel containers. Staff have identified several cost-effective alternatives to reduce permeation emissions from portable fuel containers, for example, barrier surface treatments.

Warranty

The standard requires manufacturers of both spill-proof systems and spill-proof spouts to warrant these products for a period of not less than one year against defects in materials and workmanship. This performance standard was added to ensure consumer satisfaction with the new containers and spouts and to protect the consumers' investment.

Innovative Products

A portable fuel container or spout or both can be exempted from compliance with the performance standards in the regulation if it can be classified as innovative. An innovative product may not adhere to all of the performance standards but due to its design, delivery system, or other factors, use of the product will result in cumulative ROG emissions below the highest emitting representative spill-proof system or representative spill-proof spout in its product category resulting from applicable testing. Additionally, the applicant must identify the test methods that can be used to enforce the innovative products exemption.

Administrative Requirements

The proposed regulation allows the manufacturers of noncompliant products a one year sell-through period. Manufacturers may continue to sell existing product provided that the products were manufactured before January 1, 2001. However, staff believes it is important to differentiate spill-proof systems and spill-proof spouts from their conventional counterparts to allow consumers to make informed choices regarding their purchase during the sell-through period, and to provide an effective enforcement tool both during and after the sell-through.

Both during and after the sell-through period, manufacturers of portable fuel containers and spouts that comply with the performance standards as described in the proposed regulations are required to label these products as “Spill-Proof Systems” or “Spill-Proof Spouts,” respectively. Spill-proof system labeling would also identify an expected fuel flow rate. And because not every spout will fit every container to create a fully compliant spill-proof system, staff is proposing a spout labeling requirement that will identify compatible portable fuel containers.

For compliance purposes, manufacturers would also be required to display a date code and a code indicating compliance with the performance standards on containers and spouts, and would file the codes with ARB. Together, these labeling requirements will aid compliance and will allow consumers to select products that best suit their individual needs.

Variances

The proposed regulations are not expected to cause or result in extraordinary economic hardship to any person or manufacturer. To further reduce this possibility, any person who cannot comply with the performance standards, due to reasons beyond the person’s reasonable control, may apply in writing for a variance. The variance procedures closely mirror other ARB variance procedures.

Test Methods

Testing is necessary to determine compliance with the performance standards. The proposed Test Methods are 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts, 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts, 512, Determination Of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts, and 513, Determination Of Permeation Rate For Spill-Proof Systems.

The first three test methods, 510, 511, and 512 will be used to determine compliance with the performance standards for spill-proof spouts. Compliance with the performance standards for spill-proof systems will be determined using the same three test methods with the addition of test method 513.

FEDERAL REGULATIONS

There are no comparable federal regulations covering emissions from this use of portable fuel containers. Federal regulations governing worker safety and safety in transporting portable fuel containers were consulted to avoid conflict.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. To obtain this document in an alternative format, please contact the Air Resources Board's ADA Coordinator at (916) 322-4505, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the staff report, and all subsequent regulatory documents are being made available on the ARB Internet site for this rulemaking, <http://www.arb.ca.gov/regact/spillcon/spillcon.htm>.

The Board staff has compiled a record that includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below. The ARB staff has determined that it is not feasible to draft the regulations in plain English due to the technical nature of the regulation; however, a plain English summary of the proposed regulations is available from the agency contact person named in this notice, and is also contained in the staff report for this regulatory action.

Further inquiries regarding this matter should be directed to Mr. George Lew of the Board's Monitoring and Laboratory Division, P.O. Box 2815, Sacramento, CA 95812, telephone (916) 327-0900.

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 section 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 nondiscretionary savings to local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation will affect small business. The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

Finally, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California. Assessment of the economic impacts of the proposed regulatory action can be found in the staff report.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency 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. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, September 22, 1999, or received by the Clerk of the Board at the hearing.

The Board requests but does not require that 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 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 HEARING PROCEDURES

This regulatory action is proposed under the authority granted in sections 39600, 39601, 43013, 43018, and 43101 of the 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 action is proposed to implement, interpret and make specific sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017, and 43018 of the 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).

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 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 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 the Board's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Date:

Michael P. Kenny
Executive Officer