

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE UNIHOSE DISPENSER REQUIREMENTS IN THE REGULATION FOR CERTIFICATION OF VAPOR RECOVERY SYSTEMS OF DISPENSING FACILITIES (GASOLINE SERVICE STATIONS)

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the regulations for certification of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities).

DATE: July 22, 2004

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium, Second Floor
1001 I Street
Sacramento, Ca 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., July 22, 2004, and may continue at 8:30 a.m., July 23, 2004. This item may not be considered until July 23, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before July 22, 2004 to determine the time when this item will be considered.

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 amendments to section 94011, title 17, California Code of Regulations (CCR) and the documents incorporated by reference therein.

Background

The Air Resources Board (Board or ARB) certifies the vapor recovery equipment that is used in service stations or gasoline dispensing facilities (GDFs). Control of the emissions from

GDFs is necessary to reduce emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. The ARB is currently implementing the Enhanced Vapor Recovery (EVR) program, which requires that vapor recovery systems be compatible with fueling onboard refueling vapor recovery (ORVR) vehicles by April 1, 2005. The EVR program requires several additional standards to be met by April 1, 2009.

Need for Amendment and Adoption

Section 4.11 of CP-201, "Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," describes the requirements for unihose dispensers. Section 4.11 currently triggers replacement of some dispensers if more than 50% of the dispenser vapor piping is modified. Modification of the dispenser vapor piping is necessary for some ORVR compatibility system upgrades. Gasoline marketers recently commented that costs to upgrade to ORVR compatible systems could be as high as \$75,000 per station where dispenser replacement is required. This cost increase reduces the cost-effectiveness of the ORVR compatibility requirement. Therefore, the amendments are needed to eliminate high costs associated with dispenser replacement for GDF operators who must upgrade to ORVR compatible vapor recovery systems by April 1, 2005.

Summary of Staff Proposal

ARB staff proposes to revise section 4.11 of CP-201, "Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," and to amend title 17, CCR, sections 94011, which incorporates CP-201 by reference.

The proposed amendment will remove language that triggers conversion to a unihose dispenser when modifying vapor piping in the dispensers. Section 4.11 will still require unihose dispensers for new facilities and for facilities that replace more than 50% of the dispensers. Dispensers that must be replaced due to damage resulting from an accident or vandalism may be replaced with the previously installed dispenser type.

Comparable Federal Regulations

There are no comparable federal regulations that certify gasoline recovery systems for service stations; however, changes to ARB vapor recovery regulations have a national impact. ARB certification is required by most other states which mandate Phase I or Phase II vapor recovery at service stations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The 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: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Proposed Amendments to the Unihose

Dispenser Requirements in the Regulation for Certification of Vapor Recovery Systems of Dispensing Facilities (Gasoline Service Stations).”

The ARB has determined that it is not feasible to draft the proposed regulatory action in plain noncontrolling English due to the technical nature of the regulations; however, a plain English summary of the proposed regulatory action is available from the agency contact person named in this notice, and is also contained in Section V, “Reasons and Summary of Proposed Amendments to the Certification Procedure (CP-201),” of the ISOR for this regulatory action.

Copies of the ISOR and 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 (July 22, 2004).

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 web site listed below.

Requests for printed documents and inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Cindy Castronovo or George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

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 and 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.

If you are a person with a disability and desire to obtain this document in an alternative format, 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/eeo/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.

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/unihose.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, the ARB staff evaluated the potential economic impacts on representative private persons and businesses. The ARB has determined that some gasoline station operators may save \$2,000 to \$65,000 by not having to convert existing dispensers to the unihose configuration while complying with the ORVR compatibility requirement. The ARB is not aware of any costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Gasoline dispensing facilities operated by state and local agencies, such as the Department of General Services, California Highway Patrol or Caltrans may realize similar cost savings.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), 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, except as discussed above, or other nondiscretionary savings to state or local agencies.

The Executive Officer has made an initial determination that 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.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses that own or operate GDFs.

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 ARB must determine that no reasonable alternative considered by the ARB or that has otherwise been identified and brought to the attention of the ARB 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.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

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 Board, written submissions not physically submitted at the hearing must be received no later than **12:00 noon July 21, 2004**, and addressed to the following:

Postal Mail is to be sent to:

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

Electronic mail is to be sent to: unihose@listserv.arb.ca.gov and received at the ARB no later than **12:00 noon July 21, 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 July 21, 2004**.

The Board requests, but does not require, 30 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 ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39515, 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, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The ARB 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, Visitors 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: May 25, 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."