

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### **NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO TITLE 17 OF THE CALIFORNIA CODE OF REGULATIONS, SECTION 94006 - DEFECTS SUBSTANTIALLY IMPAIRING THE EFFECTIVENESS OF VAPOR RECOVERY SYSTEMS USED IN MOTOR FUELING OPERATIONS**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to section 94006 of title 17 of the California Code of Regulations (CCR), otherwise known as the Vapor Recovery Equipment Defects List. The Defects List is comprised of those 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. Such defects are sufficiently egregious that, when found, the fueling point is immediately removed from service until the defect is repaired.

DATE: November 15, 2001

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Auditorium, Second Floor  
1001 "I" Street  
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., November 15, 2001 and may continue at 8:30 a.m., November 16, 2001.

This item may not be considered until November 16, 2001. Please consult the agenda for the meeting, which will be available at least 10 days before November 15, 2001, 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 Clerk of the Board at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area by November 1, 2001, to ensure accommodation.

### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendments to section 94006, title 17, California Code of Regulations (CCR), Defects Substantially Impairing the Effectiveness of Vapor Recovery Systems Used in Motor Fueling Operations, by eliminating the current defects list (sections 94006(a) through (j)) and incorporating the document "Vapor Recovery Equipment Defects List Title 17 Update Modified August 21, 2001" (Staff Report Appendix 2) into the regulation.

**Background:** The California Health and Safety Code (HSC) section 41960.2 requires the ARB to 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 to update the list to reflect changes in equipment technology or performance. Amendments to title 17 of the California Code of Regulations, section 94006; Defects Substantially Impairing the Effectiveness of Vapor Recovery Systems Used in Motor Fueling Operations (section 94006) are being proposed in this regulatory action in order to improve the effectiveness of the vapor recovery program. Gasoline vapor emissions, which are a significant contributor to the formation of photochemical ozone, or smog, are controlled during two types of gasoline transfer. Phase I vapor recovery collects vapors when a tanker truck is loaded at the bulk terminal and when it fills the service station underground tank. Phase II vapor recovery collects vapors during consumer vehicle refueling at a gasoline dispensing facility (GDF). The vapor recovery collection efficiency during these transfers is required to comply with ARB regulations and is monitored and enforced through certification of vapor recovery systems. When a vapor recovery system is certified, an executive order is issued to the system manufacturer by the ARB that specifies the conditions of use.

ARB is required to identify and list defects in the vapor recovery equipment that impair the effectiveness of the vapor recovery system in collecting the gasoline vapors. The list is contained in section 94006, title 17, California Code of Regulations. Simply stated, the specified defects in the specified vapor recovery equipment components substantially increase emissions by not functioning as certified. Health and Safety Code section 41960.2(c)(2) requires the ARB to periodically update the list contained in section 94006 after reviewing the list at a public workshop.

Previously, some of these equipment defects were listed in the individual executive orders. However, ARB staff believe that amending section 94006 to include all of the defects in one regulatory document will enhance the ability of enforcement personnel and GDF operators to identify and repair those defects that could significantly impact the effectiveness of the vapor recovery system. When a component on the section 94006 list is found 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)). If a component is not in good working order but does not contain a listed defect, the local air pollution control district has other enforcement options (HSC section 41960.2(e)). Being on the list requires that the defective component be “tagged out” (removed from service).

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

The ARB staff has prepared a Staff Report which includes the initial statement of reasons (ISOR) for the proposed action, and a summary of the potential and economic impacts of the proposal.

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, Environmental Services Center, 1001 "I" Street, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (November 15, 2001).

Upon its completion, the Final Statement of Reason (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.

Inquiries concerning the substance of the proposed regulations should be directed to Ranjit Bhullar, Manager, Certification and Vapor Recovery In-Use Compliance, Surveillance Branch, Compliance Division, at (916) 323-7370 or R. Neil Nipper, Air Resources Engineer, Certification and Vapor Recovery In-Use Compliance, Surveillance Branch, Compliance Division, at (916) 324-7343.

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 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.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

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/vrdef01/vrdef01.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 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.

The Executive Officer has made an initial determination 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. This determination is based on the fact that all requirements identified by the proposed regulatory action exist now. The proposed regulatory action combines existing defects into one document.

In accordance with the California Administrative Procedure Act section 11346.3(b), the Executive Officer has determined that adoption of the proposed regulatory action should have no impact on the creation or elimination of jobs within the State of California, the creation of new business or elimination of existing business within California, or the expansion of business currently doing business in California.

The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has determined that adoption of the proposed regulatory action does affect small business.

The Board 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 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 Board, written submissions not physically submitted at the hearing must be received no later than **12:00 noon, November 14, 2001**, and addressed to the following:

Postal Mail is to be sent to:

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

Electronic mail is to be sent to: [vrdef01@listserv.arb.gov](mailto:vrdef01@listserv.arb.gov) and received at the ARB by no later than **12:00 noon, November 14, 2001**.

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, November 14, 2001**.

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 that authority granted in California Health and Safety Code sections 39600, 39601, and 41960.2(c)(1) and (2). This action is proposed to implement, interpret, and make specific HSC sections 41960.2(c)(1) and (2) and section 41960.2(d).

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.

### **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 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 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, Environmental Services Center, 1001 "I" Street, First Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny  
Executive Officer

Date: September 18, 2001

*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](http://www.arb.ca.gov).*