FINAL REGULATION ORDER

BENZENE AIRBORNE TOXIC CONTROL MEASURE FOR RETAIL SERVICE STATIONS

Adopt Subchapter 7.5., Sections 93100 and 93101, Chapter 1, Part III, Titles 17 and 26, California Code of Regulations, to read as follows:

Subchapter 7.5. Airborne Toxic Control Measures

93100. Nonvehicular Airborne Toxic Control Measures.

The nonvehicular airborne toxic control measures contained in this subchapter have been adopted by the state board and shall be implemented by adoption of regulations by local air pollution control and air quality management districts pursuant to Health and Safety Code Section 39666.

NOTE: Authority cited: Sections 39600, 39601, 39650 and 39666, Health and Safety Code. Reference: Sections 39650 and 39666, Health and Safety Code.

93101. Benzene Airborne Toxic Control Measure--Retail Service Stations.

(a) Definitions. For the purposes of this section, the following definitions shall apply:

(1) "ARB-certified vapor recovery system" means a vapor recovery system which has been certified by the state board pursuant to Section 41954 of the Health and Safety Code.

(2) "Excavation" means exposure to view by digging.

(3) "Gasoline" means any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure of four pounds or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known or sold as gasoline.

(4) "Motor vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(5) "Owner or operator" means an owner or operator of a retail service station.

(6) "Phase I vapor recovery system" means a gasoline vapor recovery system which recovers vapors during the transfer of gasoline from delivery tanks into stationary storage tanks.

(7) "Phase II vapor recovery system" means a gasoline vapor recovery system which recovers vapors during the fueling of motor vehicles from stationary storage tanks.

(8) "Retail service station" means any new or existing motor vehicle fueling service station subject to payment of California sales tax on gasoline sales.

(9) "Existing retail service station" means any retail service station operating, constructed, or under construction as of the date of district adoption of regulations implementing this control measure.

(10) "New retail service station" means any retail service station which is not constructed or under construction as of the date of district adoption of regulations implementing this control measure.

(11) "Tank replacement" means replacement of one or more stationary storage tanks at an existing retail service station or excavation of 50 percent or more of an existing retail service station's total underground liquid piping from the stationary storage tanks to the gasoline dispensers.

(12) "Throughput" means the volume of gasoline dispensed at a retail service station.

(b) Phase I Vapor Recovery System Requirements.

(1) No owner or operator shall transfer, permit the transfer, or provide equipment for the transfer of gasoline, and no other person shall transfer gasoline from a gasoline delivery tank equipped with a vapor recovery system into a stationary storage tank at a retail service station unless an ARB-certified Phase I vapor recovery system is installed on the stationary storage tank and used during the transfer.

(2) The provisions of subdivision (b)(1) shall not apply to:

(A) A transfer to a stationary storage tank with a capacity of less than 1.0 cubic meter (260 gallons).

(B) A transfer to a stationary storage tank used the majority of the time for the fueling of implements of husbandry as defined in Division 16, Chapter 1, of the Vehicle Code.

(C) A transfer to a stationary storage tank used exclusively to fuel motor vehicles with a fuel capacity of five gallons or less.

(D) An existing retail service station with an annual station gasoline throughput from tanks other than those described in subdivisions (b)(2)(A), (b)(2)(B) and (b)(2)(C) of 480,000 or fewer gallons during the calendar year prior to district adoption of the measure. If during any calendar year thereafter the gasoline throughput from such tanks at the existing retail service station exceeds 480,000 gallons, this exemption shall cease to apply commencing with the first day of the following calendar year.

(E) A transfer to a stationary storage tank at an existing retail service station which receives gasoline exclusively from delivery tanks that are not required to be equipped with vapor recovery systems.

(3) Notwithstanding (b)(2)(D), at the time of tank replacement at an existing retail service station, ARB-certified Phase I vapor recovery systems shall be installed and used thereafter on all of the station facilities, except those which are exempt from the Phase I requirement by (b)(2)(A), (b)(2)(B), (b)(2)(C) or (b)(2)(E).

(c) Phase II Vapor Recovery System Requirements.

(1) No owner operator shall transfer, permit the transfer or provide equipment for the transfer of gasoline from a stationary storage tank at a retail service station into a motor vehicle fuel tank unless an ARB-certified Phase II vapor recovery system is installed and used during the transfer.

(2) The provisions of subdivision (c)(1) shall not apply to:

(A) A transfer of gasoline from a stationary storage tank which is exempt from Phase I requirements under Subdivision (b)(2)(A), (b)(2)(B), or (b)(2)(C).

(B) An existing retail service station which is exempt from Phase I requirements under subdivision (b)(2)(D).

(3) Notwithstanding (c)(2)(B), at the time of tank replacement at an existing retail service station, ARB-certified Phase II vapor recovery systems shall be installed and used thereafter on all of the station facilities, except those which are exempt from the Phase II requirement by (c)(2)(A).

(d) Correction of Defects. No owner or operator shall use or permit the use of any Phase II system or any component thereof containing a defect identified in Title 17, California Code of Regulations, Section 94006 until it has been repaired, replaced, or adjusted, as necessary to remove the defect, and, if required under Health and Safety Code Section 41960.2, district personnel have reinspected the system or have authorized its use pending reinspection. Nothing in this subdivision shall excuse compliance with subdivision (c)(1).

(e) Compliance Schedule. For purposes of this section, the following compliance schedule shall apply:

(1) The owner or operator of any new retail service station subject to this section shall comply with the provisions of this section at the time gasoline is first sold from the station.

(2) The owner or operator of any existing retail service station without ARB-certified Phase I and II vapor recovery systems shall notify the air pollution control officer in writing in advance of an intended tank replacement and shall secure all necessary permits and other approvals for the installation of Phase I and II vapor recovery systems. The owner or operator of an existing retail service station shall comply with the provisions of this section upon completion of the tank replacement.

(3) The owner or operator of an existing retail service station subject to this section, who has not earlier complied in accordance with (e)(2), shall within 15 months after district adoption of the regulations implementing this control measure secure all permits and other approvals necessary for installation of the equipment required by this section. The owner or operator shall comply with the provisions of this section within 24 months after district adoption of regulations implementing this control measure.

(4) Excluding those existing retail service stations subject to this section as a result of tank replacement, the owner or operator of a previously exempt stationary storage tank or retail service station where the operation or annual throughput has changed such that the exemption from either the Phase I or II requirements or both is no longer applicable, shall comply with the section's provisions in accordance with (e)(3) above, provided that the first day the retail station or stationary storage tank is no longer exempt shall be considered as the date of district adoption of regulations implementing this control measure.

NOTE: Authority cited: Sections 39600, 39601, 39650 and 39666, Health and Safety Code. Reference: Sections 39650 and 39666, Health and Safety Code.

Adopted by the Air Resources Board on _____.