

State of California
AIR RESOURCES BOARD

EMERGENCY AMENDMENT TO THE REGULATION FOR CERTIFICATION OF
VAPOR RECOVERY SYSTEMS OF DISPENSING FACILITIES

Finding of Emergency

The emergency rulemaking action would amend the regulation for Certification of Vapor Recovery Systems of Dispensing Facilities (title 17, California Code of Regulations, section 94011) and the incorporated Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities (herein after certification procedure or CP-201). Specifically the emergency amendment would amend Table 2-1 of section 2 of CP-201 to delay the operative dates for some vapor recovery performance standards and specifications.

Specific Facts Showing the Need for Immediate Action and Informative Digest:

After notice of proposed rulemaking on October 25, 2002, the Air Resources Board (Board or ARB) on December 12, 2002, approved amendments to the regulations for certification of vapor recovery equipment, including the incorporated Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities, CP-201. CP-201 certifies the vapor recovery equipment that is used in service stations or gasoline dispensing facilities (GDFs). Vapor recovery equipment serves to control emissions of air pollutants during two types of gasoline transfer: Phase I vapor recovery collects vapors when a tanker truck fills the service station underground tank. Phase II vapor recovery collects vapors during vehicle refueling. The vapor recovery collection efficiency during both of these transfers is determined through certification of vapor recovery systems. 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.

In approving the amendments to CP-201, among other modifications, the Board approved modifications to section 2, specifically the modification of Table 2-1, Effective and Operative Dates for Performance Standards and Specifications. Table 2-1 prescribes an effective and operative date of April 1, 2003, for various standards and specifications. In this emergency rulemaking action, ARB would amend the operative dates from April 1, 2003, to October 1, 2003, as the Board directed in Resolution 02-35.

The Board directed the modification of the effective and operative dates based on the status of ARB's evaluation of the certification applications currently under review. The present status shows that no applicant would be able to complete certification to the applicable standards and specification by April 1, 2003. Immediate action is needed because Health & Safety Code section 41954 prohibits the sale and installation of systems not certified to the ARB's standards and specifications. If no vapor recovery system is certified to the current standards and specifications by April 1, 2003, there will be no vapor

recovery systems available for sale or installation on April 1, 2003.

Based on the current status of the applicants under review for certification, ARB anticipates that final certification determinations will be completed in the fall of 2003. The Board, therefore, approved extensions of the applicable effective and operative dates by six months to October 1, 2003.

In order to assure that the operative dates are amended before April 1, 2003, and to provide certainty for the regulated public, ARB must adopt the modified operative dates on an emergency basis. For the above reasons, the emergency amendment of the certification procedure is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

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.

Local Mandate Statement and Statement of Costs/Savings to State and Local Agencies: 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.

Statutory Authority and Reference: This regulatory action is taken under the authority granted to the ARB in sections 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is taken to implement, interpret, or make specific sections 39515, 39516, 39605, 39607, 40001, 41511, 41954, 41956.1, 41959, 41960, and 41960.2 of the Health and Safety Code.

CALIFORNIA AIR RESOURCES BOARD

CATHERINE WITHERSPOON
EXECUTIVE OFFICER

Date: March 7, 2003