

State of California
AIR RESOURCES BOARD

Executive Order G-03-025

Relating to the Emergency Amendment of
Title 17, California Code of Regulations, Section 94011

WHEREAS, on December 12, 2002, the Air Resources Board (ARB or Board) conducted a public hearing to consider the adoption of amendments to the regulations for certification and testing of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities), as set forth in the Initial Statement of Reasons and Staff Report released to the public on October 25, 2002;

WHEREAS, following the public hearing on December 12, 2002, the Board adopted Resolution 02-35, in which the Board approved amendments to 94010, 94011, 94163, 94164, 94165, 94166, and 94167, title 17, California Code of Regulations (CCR), and the documents incorporated by reference therein;

WHEREAS, Certification Procedure CP-201, Certification Procedure of Vapor Recovery Systems of Dispensing Facilities (CP-201) is among the documents incorporated by reference into title 17, CCR, section 94011;

WHEREAS, in Resolution 02-35 the Board approved modifications to Table 2-1 of CP-201 section 2 that delay by six months the effective and operative dates for some standards and specifications for vapor recovery systems installed at gasoline dispensing facilities;

WHEREAS, in response to the Board's approval of the modifications to Table 2-1 of CP-201 section 2, I, Catherine Witherspoon, adopted an emergency regulation on March 7, 2003, to effectuate the purposes of Resolution 02-35, specifically the delay of the operative dates for some standards and specifications for vapor recovery systems from April 1, 2003 to October 1, 2003;

WHEREAS, the Office of Administrative Law emergency regulations approved the emergency regulation I had adopted and filed it with the Secretary of State on March 13, 2003;

WHEREAS, under the Administrative Procedure Act, Government Code section 41346.1(e), the filed emergency regulation is in effect only until July 11, 2003;

WHEREAS, the ARB has with due diligence sought to complete the rulemaking action for both the emergency rulemaking action and the originally notice rulemaking action, but will need additional time to complete the rulemaking action within one year of the originally notice amendments to the standards and specifications, specifically by October 24, 2003;

WHEREAS, further delay in the operative dates of some standards and specifications is needed because no vapor recovery system that meets the current standards and specifications is anticipated to be certified by October 1, 2003;

WHEREAS, in Resolution 02-35 the Board directs the Executive Officer to make modifications as may be appropriate in light of the comments received or for consistency with the modifications approved by the Board in Attachment B to the Resolution;

WHEREAS, the delay of the operative dates for the relevant standards and specifications to April 1, 2004 will align these operative dates with prospective operative dates for other standards and specifications; and

WHEREAS, as declared in the enclosed Finding of Emergency, the adoption an emergency regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

IT IS ORDERED, that title 17, CCR, section 94011, and the incorporated CP-201, be amended, as set forth in the attached Emergency Regulation Order.

IT IS FURTHER ORDERED, that the regulation and the relevant portion of the incorporated certification procedure be submitted to the OAL as an emergency rulemaking action to effectuate the purpose of Board Resolution 02-35 to provide for an appropriate delay in the operative dates of some standards and specifications for the certification of vapor recovery systems.

IT IS FURTHER ORDERED, that the recitals and findings contained in Resolution 02-35 be incorporated herein.

Executed this 1st day of July 2003, at Sacramento, California.

Catherine Witherspoon
Executive Officer

Attachment