

State of California
AIR RESOURCES BOARD

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

Finding of Emergency

The proposed emergency action amends 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). The emergency amendment would add a section 18 in CP-201 to establish a limitation on the duration of vapor recovery system certifications.

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

On March 20, 2001 the Office of Administrative Law (OAL) approved amendments to CP-201 with the exception of section 18. 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 its disapproval decision (March 27, 2001), OAL found that section 18, which the Air Resources Board (ARB) adopted to establish a limitation on the duration of vapor recovery system certifications, did not meet the clarity standard of Government Code section 11349.1. To clarify section 18, ARB has revised the regulation to specify a four-year term of certification.

Immediate action is needed because ARB is now evaluating vapor recovery systems under CP-201, which OAL approved, with the exception of section 18, on March 20, 2001. ARB anticipates issuing the first certification during June 2001. Immediate inclusion of section 18 as part of the certification procedure is necessary to effectuate the purpose of this provision as described below:

Without the inclusion of section 18 in the certification procedure, vapor recovery system certifications have no expiration date. State law provides for decertifying systems if the system no longer meets the required specifications or standards (Health & Safety Code section 41954(c)); however, this process is infrequently invoked, except in grievous circumstances, because of the legal consequences of

revocation. Thus, without limited term certifications, outdated equipment designs may be purchased and installed even if various problems with their operation have been identified. Also, systems that are no longer manufactured or supported may remain installed and, in some cases, may even be installed from stockpiles of old equipment.

ARB proposes limiting certifications to a term of four years duration. The certifications could be renewed continuously without additional testing unless renewal is denied based on data that demonstrates deficiencies. If no evidence of a deficiency existed, ARB staff would process the renewal automatically. If deficiency information were available, ARB staff would work with the equipment manufacturer and other interested parties to resolve the problems before a new certification would be issued. This process allows timely correction of problems while avoiding the negative connotations associated with the revocation of a certification.

If a certification were modified, a new expiration date would be set. Installed systems affected by certification expiration would be permitted to remain in use for the remainder of the useful life, or four years, whichever is shorter, provided that the replacement parts or components meet the requirements of CP-201 section 19.

For the above reasons, the 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 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, 39516, 39605, 39607, 40001, 41511, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety.

CALIFORNIA AIR RESOURCES BOARD

MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: