

State of California  
AIR RESOURCES BOARD

**Resolution 04-41**

November 18, 2004

Agenda Item No.: 04-10-6

WHEREAS, the Air Resources Board (ARB or Board) has adopted Enhanced Vapor Recovery (EVR) regulations for certification and testing of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities), as set forth in sections 94010-94015, and 94148–94167, title 17, California Code of Regulations (CCR), and the documents incorporated by reference therein;

WHEREAS, the 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, Table 2-1 of CP-201 specifies the effective and operative dates of the EVR performance standards and specifications;

WHEREAS, gasoline dispensing facilities subject to vapor recovery requirements must comply with EVR standards within four years of the standard effective date as provided in Health and Safety Code section 41956.1;

WHEREAS, gasoline dispensing facilities subject to vapor recovery requirements are required to have Phase II systems that are compatible with fueling vehicles equipped with Onboard Refueling Vapor Recovery (ORVR) by April 1, 2005;

WHEREAS, the effective and operative dates for other Phase II EVR standards have been delayed by Executive Orders G-70-203 and G-70-205 as allowed by section 19.2 of CP-201 when a certified system meeting the applicable operative performance standards and specifications is not commercially available;

WHEREAS, there is not enough time under the existing EVR implementation schedule for an estimated 3500 service station operators to upgrade vapor recovery equipment to meet full EVR standards by the April 1, 2005 ORVR compatibility deadline as an EVR Phase II system is not yet certified;

WHEREAS, an EVR Phase II system is expected to be certified in January 2005;

WHEREAS, under the existing EVR implementation schedule, station owners will be forced to upgrade equipment twice, once to meet the ORVR compatibility standard and later to meet full EVR Phase II standards;

WHEREAS, two equipment upgrades may result in a loss of investment for some stations if the ORVR compatible system is not certified as part of a full EVR system;

WHEREAS, the Board's staff has proposed revisions to section 2.4 and Table 2-1 of CP-201 to extend the ORVR compatibility deadline so that stations may upgrade to ORVR compatible systems that also meet full EVR requirements;

WHEREAS, the proposed revisions to section 2.4 and Table 2-1 require the stations with the largest gasoline throughput to comply first to provide an orderly implementation for service station upgrades and ensure that all stations have completed equipment upgrades by March 1, 2006;

WHEREAS, the Board's staff has proposed revisions to Table 2-1 to reflect the effective and operative date changes provided in Executive Orders G-70-203 and G-70-205;

WHEREAS, the Board's staff has proposed revisions to Table 2-1 to amend the effective date for in-station diagnostics (ISD) for medium throughput stations to April 1, 2006 to maintain the ISD phase-in schedule;

WHEREAS, the Board's staff has proposed amendments to title 17, CCR, section 94011, which incorporates by reference the revised vapor recovery certification procedure;

WHEREAS, the proposed amendments are reasonable and necessary to achieve and maintain ambient air quality standards;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board has considered the preliminary impact of the proposed regulatory action on the economy of the state;

WHEREAS, the Board finds that:

Amendment of the provisions of title 17, California Code of Regulations, as set forth in Attachment A hereto, and the incorporation of the proposed amended vapor recovery certification procedure as set forth in Attachment B hereto, are necessary and appropriate to satisfy the requirements of sections 39601, 39607(d), 41950, and 41954 of the Health and Safety Code;

The actions approved herein will have no significant adverse environmental impacts; and

There is no reasonable alternative considered by the Board or otherwise identified that would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons or businesses.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section 94011, title 17, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section 94011, title 17, California Code of Regulations, after making the modified regulatory language available for public comment for a period of at least 15 days, as required by Government Code section 11346.8, provided that the Executive Officer shall consider such written comments regarding the modification as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received or for consistency with the modifications in Attachment B, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

I hereby certify that the above is a true and correct copy of Resolution 04-41, as adopted by the Air Resources Board.

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Lori Andreoni, Clerk of the Board

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**Identification of Attachments to the Resolution**

Attachment A: Amendments to section 94011, title 17, California Code of Regulations and the documents incorporated by reference therein, as noticed on October 1, 2004

Attachment B: Modifications to Vapor Recovery Certification Procedure CP-201, to be made available during the 15-day comment period.