

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 section 4.11 of CP-201 to modify the requirements for installation of unihose dispensers at gasoline dispensing facilities.

The proposed amendment will remove language that triggers conversion to a unihose dispenser when modifying vapor piping in the dispensers. Section 4.11 will still require unihose dispensers for new facilities and for facilities that replace more than 50% of the dispensers. Dispensers that must be replaced due to damage resulting from an accident or vandalism may be replaced with the previously installed dispenser type. The emergency amendment will expedite a regulation revision that was publicly noticed on June 4, 2004 and approved by the Air Resources Board on July 22, 2004.

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

The Air Resources Board (Board or ARB) certifies the vapor recovery equipment that is used in service stations or gasoline dispensing facilities (GDFs). 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. The ARB is currently implementing the Enhanced Vapor Recovery (EVR) program, which requires that vapor recovery systems be compatible with fueling onboard refueling vapor recovery (ORVR) vehicles by April 1, 2005. The EVR program requires several additional standards to be met by April 1, 2009.

Section 4.11 of CP-201, "Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," describes the unihose dispenser requirement. Section 4.11 currently triggers replacement of some dispensers if more than 50% of the dispenser vapor piping is modified. Modification of the dispenser vapor piping is necessary for some ORVR compatibility system upgrades. Gasoline marketers recently commented that costs to upgrade to ORVR compatible systems could be as high as \$75,000 per station where dispenser replacement is required. This cost increase reduces the cost-effectiveness of the ORVR compatibility requirement. Therefore, the amendments approved by the Board on July 22, 2004, are needed to eliminate high costs associated with dispenser replacement for GDF operators who must upgrade to ORVR compatible vapor recovery systems by April 1, 2005.

Unihose dispensers have two gasoline nozzles with associated hoses and couplings compared to six sets of nozzle equipment for “six-pack” dispenser configurations. Unihose dispensers are preferred in order to minimize possible leak sources, and are thus required for new installations. However, no emission reductions have been claimed when switching from “six-pack” to unihose, and the EVR regulations provide that non-unihose dispensers may continue to be used as part of EVR systems for the remainder of their useful life.

The emergency amendment of the certification procedure is necessary because GDF operators are currently in the process of obtaining local permits from the Air Pollution Control Districts (Districts) and arranging for ORVR compatibility upgrades in order to ensure compliance by the April 2005 ORVR deadline. The permitting process must be expedited because, as the California Independent Oil Marketers Association (CIOMA) testified before the Board at the July 22, 2004 hearing, permitting of changes at service stations can take up to one year. Similarly, the Western States Petroleum Association (WSPA) commented to the Board that it would be difficult to obtain the necessary permits, retain and schedule contractors, construct and convert gas stations to comply with ORVR requirements within an 8-month timeframe. Therefore, districts issuing permits for ORVR upgrades need to know that the regulations approved by the ARB will be effective now before they can grant GDFs the relief of allowing them to continue using their six-pack dispensers when they conduct their ORVR upgrades. Unless the proposed amendment to the unihose requirement is allowed to take effect immediately then, some GDF operators will be forced by the Districts to incur the substantial additional expense of converting their “six pack” dispenser configurations to unihose configurations when they make the changes necessary to comply with the ORVR requirements that take effect in April of 2005. Accordingly, immediate action is needed to avoid these substantial costs associated with replacing the “six pack” dispensers which would result in few if any emission reductions. Avoiding unnecessary costs will ensure that GDFs have adequate funds available to comply with future EVR requirements.

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: Gasoline dispensing facilities operated by state agencies (such as the Department of General Services, California Highway Patrol or Caltrans) or by local agencies may realize some savings by not having to convert existing dispensers to the

unihose requirement, while complying with the ORVR compatibility requirement. Except for these cost savings, 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, cost 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: