

State of California
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking, Including
Summary of Comments and Agency Response**

**AMENDMENTS TO CERTIFICATION AND TEST PROCEDURES FOR VAPOR
RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES (GDFs)
AND CARGO TANKS**

Public Hearing Date: July 25, 2013
Agenda Item No.: 13-7-2

I. GENERAL

In this rulemaking, the Air Resources Board (ARB or Board) is amending its regulations and associated certification and test procedures for gasoline vapor recovery systems used at gasoline dispensing facilities and cargo tanks that deliver fuel to those facilities. The specific sections amended are 94014 and 94016, title 17, California Code of Regulations (CCR).

The Staff Report: Initial Statement of Reasons for Rulemaking (staff report or ISOR), entitled "Initial Statement of Reasons for Proposed Rulemaking, Amendments to Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities (GDFs) and Cargo Tanks," released June 5, 2013, is incorporated by reference herein. The staff report contained the rationale for the proposed amendments. All documents associated with this rulemaking were made available to the public and are available on ARB's web site at:
<http://www.arb.ca.gov/regact/2013/cargo2013/cargo2013.htm>

At the hearing on July 25, 2013, the Board adopted Resolution 13-32, in which it approved the originally proposed changes to the regulations. The resolution directs the Executive Officer to adopt modified amendments after a 15-day public comment period, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration, if he determines that this is warranted.

A Notice of Public Availability of Modified Text was published on March 3, 2014, along with the proposed regulatory amendments. No comments were received during the supplemental comment period.

This Final Statement of Reasons (FSOR) updates the Staff Report by identifying and providing the rationale for the modifications made to the originally proposed regulatory text. The FSOR also contains a summary of the comments received on the proposed regulatory amendments during the formal regulatory process, and ARB's responses to those comments.

A. MANDATES AND FISCAL IMPACTS TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS

The Board has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

B. CONSIDERATION OF ALTERNATIVES

The Executive Officer has also determined, pursuant to CCR, Title 1, Section 4, that the proposed regulatory action would not affect small businesses because it does not impose any costs on small businesses.

The Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective as and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board. Information supporting this determination may be found in the Staff Report, in staff's comments and responses at the hearing, and in this FSOR.

II. MODIFICATIONS TO THE ORIGINAL PROPOSAL

In this rulemaking, ARB set out to improve two test procedures used by ARB staff during certification of vapor recovery equipment designed for use with aboveground gasoline storage tanks (AST), and improve the certification procedure and three test procedures for equipment used on cargo tanks to control gasoline vapor emissions.

One of the two vapor recovery test procedures that ARB proposed to amend was TP-201.1 – "Volumetric Efficiency of Phase I Systems." The amendments were intended to make the procedure appropriate for testing ASTs by addressing certain technical deficiencies encountered by staff during field testing. Comments received from the South Coast Air Quality Management District during the public comment period prompted staff to improve upon the original proposal by devising a method to quantify standing loss emissions prior to conducting a Phase I transfer, then subtracting those emissions from the emissions observed in the time after the transfer has been completed. The technical basis for this approach was described in detail in the document "Technical Support Document for the Development of Test

Procedure TP-206.4, Volumetric Efficiency for Phase I Systems for Aboveground Storage Tanks.”

In light of these modifications resulting from comments received, staff has determined that it is more appropriate to include the amendments initially proposed for inclusion in TP-201.1 into a separate test procedure, TP-206.4 –“Volumetric Efficiency of Phase I Systems for Aboveground Storage Tanks.” TP-206.4 is based on TP-201.1 but addresses the standing loss emissions that are specific to ASTs. Thus, TP-206.4 addresses the technical limitations of using TP-201.1 for AST testing, contains the additional improvements resulting from public comments, and greatly enhances the clarity and readability of the amendments. Consequently, the amendments that were originally proposed to TP-201.1 have been rescinded and TP-201.1 will remain unchanged from the current version (last amended July 26, 2012).

Title 17, CCR, section 94016, and CP-206 – “Certification Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks” will also undergo minor amendments to incorporate and refer to the newly titled TP-206.4.

III. DOCUMENTS INCORPORATED BY REFERENCE

The regulation and the incorporated certification procedures and test procedures adopted by the Executive Officer incorporate by reference the following documents:

1. TP-201.1 - “Volumetric Efficiency for Phase I Systems” (Adopted: April 12, 1996 as last amended: July 26, 2012)
2. CP-204 - “Certification Procedure for Vapor Recovery Procedure for Vapor Recovery Systems for Cargo Tanks” (Adopted: April 12, 1996 as last amended: May 27, 2014)
3. TP-204.1 - "Determination of Five Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks" (Adopted: April 12, 1996 as last amended: May 27, 2014)
4. TP-204.2 - "Determination of One Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks" (Adopted: April 12, 1996 as last amended: May 27, 2014)
5. TP-204.3 - "Determination of Leak(s)" (Adopted: April 12, 1996 as last amended: May 27, 2014)
6. TP-206.2 - "Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks" (Adopted: May 2, 2008, as last amended: May 27, 2014)
7. TP-206.4 – “Volumetric Efficiency of Phase I Vapor Recovery Systems for Aboveground Storage Tanks (Adopted: May 27, 2014)
8. CP-206 – “Vapor Recovery Certification Procedure” (Adopted: May 2, 2008, as last amended May 27, 2014)

9. U.S. EPA Method 27 referenced in the Code of Federal Regulations – Title 40, Chapter I, Subchapter C, Part 63, Subpart R, section 63.425(e), as last amended on December 19, 2003
10. U.S. EPA Method 21
11. US EPA Method 2B, “Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators”, 40 CFR Part 60, Appendix. A-1 (36 FR 24877, December 23, 1971)
12. US EPA Method 301 – “Field Validation of Pollutant Measurement Methods From Various Waste Media”
13. ARB Method 100, Procedures for Continuous Gaseous Emission Stack Sampling (Adopted June 29, 1983, as amended July 28, 1997)
14. US EPA Method 10, “Determination of Carbon Monoxide Emissions From Stationary Sources”, 40 CFR Part 60, Appendix A
15. US EPA Method 3A, “Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)”, 40 CFR Part 60, Appendix A
16. TP-206.3 – “Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks” (Adopted: May 2, 2008, as last amended July 26, 2012)

These documents were incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to publish them in the California Code of Regulations. The documents are lengthy and highly technical test methods and engineering documents that would add unnecessary additional volume to the regulation. ARB has historically incorporated by reference these types of documents as part of its vapor recovery system certification regulations, which OAL has consistently approved. Distribution to all recipients of the California Code of Regulations is not needed because the interested audience for these documents is limited to the technical staff at a portion of reporting facilities, most of whom are already familiar with these methods and documents. Also, the incorporated documents were made available by ARB upon request during the rulemaking action and will continue to be available in the future.

IV. SUMMARY OF COMMENTS AND AGENCY RESPONSE

Written comments in response to the ISOR were received during the 45-day comment period prior to the hearing from the following:

- Ms. Patty Senecal, Western States Petroleum Association (WSPA)
- Mr. Barry Wallerstein, South Coast Air Quality Management District (SCAQMD)

Below is a summary of each comment made regarding the specific regulatory actions proposed, together with an explanation of how the proposed action was changed to accommodate each comment, or the reasons for making no change. Comments not involving objections or recommendations specifically towards the rulemaking or to the procedures followed by ARB in this rulemaking are not summarized below.

1. Comment: We support the ARB's proposal to improve test methods and harmonize California and federal requirements. (WSPA)

Agency Response: ARB staff appreciates WSPA's support of this proposal.

2. Comment: In Section 9.1 of TP-204.1, please mention both regulations (the relevant section for Subpart BBBBBB is section 63.11092(f)(1) (WSPA)

Agency Response: After consideration, ARB staff has decided not to incorporate WSPA's request because Subpart BBBBBB Section 63.11092(f)(1) applies to gasoline distribution bulk terminals, bulk plants, and pipeline facilities. Section 9.1 of TP 204.1 references alternative test procedures for conducting the annual cargo tank vapor recovery certification. Title 40, Chapter I, Subchapter C, Part 63, Subpart R, section 63.425(e) lists the annual certification test method and procedure for gasoline cargo tanks.

3. Comment: Section 8 of TP-204.1 refers to ARB's Online Cargo Tank Vapor Recovery Certification Program for test reporting. Please ensure that the online form requests all of the test information that is required to be reported under the corresponding Federal requirements in 40 CFR 63 Subpart BBBBBB, Section 63.11094(b)(2), and that ARB's tightness certificates also satisfy all of those requirements. (WSPA).

Agency Response: WSPA's request would impose additional reporting requirements on cargo tank owners, so ARB staff has decided not to incorporate it into the final regulation. The information WSPA has asked cargo tank owner/operators to submit must currently be maintained by terminal operators under federal requirements. WSPA's suggestion could result in a reduction of effort for those facility operators, but their workload would effectively be transferred to cargo tank operators and testers. Currently facility operators are required to maintain this information for the federal Department of Transportation. In the future, ARB staff hopes to have access for loading racks to "current vapor certificates," and this additional information will be accessible if the owners/testers want to input that data online. ARB's current online data submittal process is not designed to accommodate and maintain the additional information that WSPA suggests be collected.

4. Comment: A better approach to addressing current problems with applying TP-201.1 to aboveground storage tanks (AST) would be to measure the volume of vapor that would otherwise be vented from the AST separate from the fuel delivery process. That measured volume can then be discounted in order to determine the full impact of the fuel delivery and the overall volumetric efficiency of the Phase I EVR system. (SCAQMD).

Agency Response: ARB staff agrees with SCAQMD's suggestion, and has revised the proposal to include a method to quantifying standing loss emissions prior to conducting a Phase I transfer, then subtracting those emissions from the emissions observed in the time after the transfer is completed. The technical basis for this approach is described in Attachment 5 of the 15-day Notice of Public Availability of Modified Text, which was made available on March 3, 2014.

There were no written comments received during the supplemental 15-day comment period.