

Updated Informative Digest

DEFECTS SUBSTANTIALLY IMPAIRING THE EFFECTIVENESS OF VAPOR RECOVERY SYSTEMS USED IN MOTOR FUELING OPERATIONS

Sections Affected

Amendment of section 94006, article 1, subchapter 8, chapter 1, division 3 of title 17, California Code of Regulations (title 17).

Background

Health and Safety Code (HSC) section 41960.2(c)(1) requires defects in vapor recovery equipment that substantially impair the effectiveness of the system in reducing air contaminants resulting from motor vehicle fueling operations (for each certified vapor recovery system) to be identified and listed by the Air Resources Board (ARB or Board). In 1982, the ARB listed the defects in section 94006, title 17; however, the defects are listed in a general format which is not organized in a system-specific configuration. This diminishes the utility of the defect information for both compliance and enforcement purposes. Furthermore, this section has not been amended or updated since 1982. After 1982, the ARB certified vapor recovery equipment and listed the significant defects associated with each of the systems in the Executive Order (E.O.) certifying the system. With over 90 current E.O.s, defect information is decentralized and difficult to locate.

Health and Safety Code (HSC) section 41960.2(c)(2) requires the ARB to periodically determine if an update of the list in section 94006 is necessary to reflect changes in equipment technology and performance. At a public workshop on December 13, 2000, ARB staff made the determination that an update is necessary. Following additional workshops staff brought proposed amendments before the Board. The amendments to title 17 that were approved by the Board on November 15, 2001 are the first periodic update of the list in section 94006.

Defects that substantially impair recovery effectiveness warrant immediate and specific action under the legislative scheme unique to vapor recovery, i.e., the equipment is marked "out of order" and may not be used until repaired, replaced, or adjusted (Health and Safety Code §41960.2(d)).

Description of the Proposed Regulatory Action

The proposed amendments to the vapor recovery defects list are based on two goals. The first is to provide clear direction concerning proper equipment operation and maintenance to the owners and operators of the dispensing facilities, and the second goal is to provide clear direction to the local air pollution control districts concerning the nature and disposition of violations of equipment requirements at gasoline dispensing facilities.

The amendments to title 17 repeal the current list of defects in section 94006 and rewrite them in a more useful tabular format. Additional defects listed in the certification E.O.s and those determined from field work have been added to the list. One or more verification procedures have been specified for each defect.

Furthermore, the regulation that lists equipment defects was modified to incorporate the following for defining a substantially impairing defective situation:

1. An emerging condition that did not exist while the system was evaluated for certification.
2. The capture and containment of refueling emissions is degraded by at least 5%.
3. A verification procedure can be applied in the field to confirm that excess emissions are being generated.

The proposed amendments affect a multitude of stakeholders. These include the vapor recovery equipment manufacturers, gasoline marketers who purchase this equipment, contractors who install and maintain vapor recovery systems, and the inspectors at air pollution control districts who enforce vapor recovery rules. In addition, California-certified systems are required by most other states and many countries. The updated defects list will facilitate compliance, enforcement, and accountability.

There are no new emission reductions or other environmental impacts associated with the amendments to section 94006; the emission reduction benefits of the vapor recovery program have already been accounted for in the State Implementation Plan (SIP). However, listing the defects in one easily accessible document will enhance compliance by GDF operators and enforcement by the districts, making it more likely that the promised reductions will, in fact, occur.

Comparable Federal Regulations

Section 41960.2(c)(1) of the Health and Safety Code requires the ARB to identify and list equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations that substantially impair the effectiveness of the systems in reducing air contaminants. This section also declares that the defects shall be identified and listed for each certified system. This requirement is unique to the State of California. No parallel federal requirement exists at this time. Accordingly, there is no conflict or duplication between this regulation and current federal regulations.