State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

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

PUBLIC HEARING TO CONSIDER THE AMENDMENT OF REGULATIONS REGARDING CERTIFICATION PROCEDURES AND TEST PROCEDURES FOR GASOLINE VAPOR RECOVERY SYSTEMS

Public Hearing Date: October 25, 2001
Agenda Item No.: 01-8-4

I. Introduction:

On October 25, 2001, the Air Resources Board (the "Board" or the "ARB") conducted public hearings to consider the amendment of five, and the addition of two new, certification and test procedures for gasoline vapor recovery equipment.

At the October 25, 2001, public hearing, the Board adopted Resolution 01-48 approving the adoption and the amendment of regulations that incorporate by reference five amended and two new certification and test procedures. The revised regulations are title 17, California Code of Regulations (CCR), sections 94010, 94011, 94153, 94155, and 94163. The incorporated amended certification and test procedures are:

D-200	Definitions for Vapor Recovery Procedures
CP-201	Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities
TP-201.1D	Pressure Integrity of Drop Tube Overfill Protection Devices
TP-201.4	Determination of Dynamic Pressure Performance
TP-201.6C	Compliance Determination of Liquid Removal Rate

The Board has also approved the adoption of sections 94164 and 94165, title 17, CCR, which incorporate the following two new procedures by reference:

TP-201.1B	Static Torque of Rotatable Phase I Adaptors
TP-201.1C	Pressure Integrity of Drop Tube/Drain Valve Assembly

After consideration of the comments and testimony received during the 45-day public comment period and at the hearing, the Board directed staff to modify the regulations and provide a further period for public comment on the modifications. The modified regulations were made available to the public for a 30-day comment period between March 22, 2002 and April 22, 2002, pursuant to Government Code section 11346.8(c). The "Notice of Public Availability of Modified Text" was mailed with the modified text of the regulations by March 22, 2002, as required by title 1, CCR, section 44.

A Staff Report was prepared as the Initial Statement of Reasons for the proposed rulemaking. The Staff Report was released on September 7, 2001, and is incorporated by reference herein. The Final Statement of Reasons updates the Staff Report by explaining why the proposed test methods were modified, as well as summarizing the public comments received and presenting the Board's responses to the comments.

The Board has determined that this regulatory action does not impose a mandate on local agencies or school districts.

The Board's Executive Officer has also determined that pursuant to Government Code section 11346.5(a)(3)(B) the regulations will affect small business. Therefore, in accord with Government Code section 11346.9(a)(5), the Board considered alternatives that would lessen the adverse economic impact on small businesses. The Board determined, for the reasons set forth in the Initial Statement of Reasons, that no alternatives 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 and less burdensome to affected private persons or businesses, or lessen the adverse economic impact on small businesses, than the action taken by the Board.

II. Background

Health and Safety Code (H&SC) section 41954 requires the Board to adopt procedures for certifying systems to control gasoline vapor emissions during gasoline marketing operations. Section 39607(d) of the Health and Safety Code requires ARB to adopt test methods to determine compliance with ARB and district non-vehicular emissions standards.

Since 1975, the ARB has adopted over 63 test methods for determining emissions from non-vehicular, or stationary, sources, and certification and test procedures related to certification and measurement of the emissions from gasoline vapor recovery systems and related equipment.

The revised and new certification and test procedures are part of the Board's ongoing effort to provide the most updated and accurate procedures for certifying systems to control gasoline vapor emissions during gasoline marketing operation and measuring the emission of air pollutants. In addition to supporting certification of vapor recovery systems and equipment, the amended procedures support emissions measurement and verification

of proper operation of installed systems. The September 7, 2001, staff report provides the complete background and reasons for adoption and revision of each of the procedures.

III. Changes to the Originally Proposed Certification and Test Procedures

At the hearing the staff presented, and the Board approved, modifications to the regulations originally proposed in the Staff Report released on September 7, 2001, in response to comments received and continuing review since the Staff Report was published. The modifications affect the text of title 17, CCR, section 94153 and certification and test procedures D-200, CP-201, TP-201.1B, and TP-201.1C. The following is a brief description of the modifications:

Changes Without Regulatory Effect

Minor editorial corrections have been made to grammar and terminology throughout the certification and test procedures. The editorial corrections do not materially alter any requirement right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Modifications to D-200: Definitions for Vapor Recovery Procedures

As originally noticed, D-200 defines the term “major modification” as the addition, replacement, or removal of an underground storage tank, underground piping, vapor piping within a dispenser, or a dispenser at an existing installation. The replacement of a dispenser is not a major modification when the replacement is occasioned by end user damage to a dispenser. As modified, D-200 clarifies the term “major modification” to differentiate between the modifications that cause the Phase I system to have the same status as a new installation and the modifications that cause the Phase II system to have the same status as a new installation.

As originally noticed, the term “overfill protection device” is used to define a device used to stop the delivery of product to a storage tank to prevent over-filling and potential spillage. As modified, the term “overfill prevention device” has replaced the term “overfill protection device” while the definition remains unchanged. This amended term provides a more accurate description of the component and is consistent with the term referenced in Underground Tank Regulations (enforced by the State Water Resources Control Board) used to describe the same device.

Modifications to CP-201: Certification Procedure for Vapor Recovery Systems

As originally noticed, the term “overfill protection device,” used in table 3-1 and section 3.3 of CP-201, describes the device used to prevent the overfilling of an underground storage tank (UST). As modified, the term “overfill prevention device” has replaced the term “overfill protection device.” The amended term provides a more accurate description of the component and is consistent with the term used by the State Water Resources in its UST

regulations (title 23, CCR, section 2635).
As originally noticed, the term “containment box,” used in table 3-1 and section 3.6 of CP-201, describes the five-gallon, bucket shaped, spill containers which surround the underground storage tank product and vapor adaptors. As modified, the term “spill container” has replaced the term “containment box.” This amended term provides a more accurate description of the component and is consistent with the term used by the State Water Resources Control Board in its water quality regulations (title 23, CCR, section 2635).

As originally noticed, table 16-1 of CP-201 identifies four components associated with Phase II vapor recovery systems as “system-specific.” The table does not identify any Phase I System components as “system-specific.” By contrast, table 16-2 identifies several Phase I vapor recovery components as non-system-specific. Testifying on behalf of the California Air Pollution Control Officers Association (CAPCOA), testimony at the hearing identified the need to establish “system-specific” components for Phase I systems. Without the “system-specific” designation, critical Phase 1 components may be installed with incompatible components. Table 16-1 has been modified to include Phase I vapor recovery components identified as system specific because they are critical to the compatibility of system components: product and vapor adaptors, spill- container valves and configurations, and drop tube overfill prevention devices. The same Phase I system components have been removed from the modified table 16-2 listing of non-system-specific components.

As originally noticed, section 4.8.3 was proposed to clarify the certification requirement for liquid retention testing by specifying not less than 10 refueling operations and four fill-ups (excluding top-off). Section 6.5.4 of TP-201.2E, Gasoline Liquid Retention in Nozzle and Hoses requires 10 tests (refuelings) for each nozzle. As modified, section 4.8.3 has been amended to be consistent with TP-201.2E by specifying not less than 10 refueling operations per nozzle.

Modifications to TP-201.1B: Static Torque of Rotatable Phase I Adaptors Test Procedure

As originally noticed, the cover page of TP-201.1B indicates that the procedure is a compliance test procedure. As the test procedure will be used in both certification and compliance testing, the modified cover page corrects the title page.

As originally noticed Section 5.1.1 of TP-201.1B states the minimum accuracy of the torque wrench shall be 1.00 percent of full-scale range. As modified, the minimum accuracy has been changed to 3.00 percent. This change is necessary to accommodate the varying degree of accuracy of torque wrenches commonly used in the field.

As originally noticed, TP-201.1B failed to specify the minimum readability of the torque wrench. As modified, section 5.1.2 has been added stating that the minimum readability of the torque wrench shall be 5.00 pound-inch increments.

As originally noticed, section 5.4 of TP-201.1B describes a socket extension as a piece of equipment needed to conduct the torque test. As modified, section 5.4 has been renumbered to 5.3 and modified to include the socket wrench and extension as the tools to be used to verify the rotation of the adaptor. Other sections have also been renumbered.

As originally noticed, the proposed TP-201.1B is used to certify product and vapor adaptors to, and determine compliance with, the static torque specification of 108 pound-inches and to verify that adaptors rotate 360 degrees. The proposed TP-201.1B inadvertently did not specify the procedure for determining rotation and did not specify the order of conducting the rotation and static torque tests. Section 7.3 has been added to include a procedure for verifying rotation. Section 7.5 has been added to instruct on taking and recording the torque measurement valves.

As originally noticed, the data sheet (Form 1) of TP-201.1B did not provide a means to indicate if the adapter passed the 360 degree rotation test. As modified, a 360-degree rotation field has been added to the data sheet (Form 1).

Modifications to TP-201.1C: Pressure Integrity of Drop Tube/Drain Valve Assembly

As originally noticed, the cover page of TP-201.1C indicates that the procedure is a compliance test procedure. As the test procedure will be used in both certification and compliance testing, the modified cover page corrects the title.

As originally noticed, section 7 of TP-201.1C states that if the pressure does not reach 2.00 inches of water column within 90 seconds, the drop tube/drain valve assembly does not comply with the maximum allowable leak rate. In conducting the test procedure, staff found that it might take as long as 165 seconds to reach the 2.00 inches of water column. Therefore, the time to reach 2.00 inches of water column is modified from 90 seconds to 180 seconds.

Modifications to TP-201.1D: Pressure Integrity of Drop Tube Overfill Prevention Devices

As originally noticed, the title of TP-201.1D contains the phrase “Drop Tube Overfill Protection”. In order to be consistent with State Water Resource Control Board regulations the term “protection” has been replaced with “prevention”. The revised title is “Pressure Integrity of Drop Tube Overfill Prevention Devices”.

Modifications to Title 17 of California Code of Regulations

Before modification, section 94153 implied that Test Procedure (TP)-201.4 (Dynamic Back Pressure) was applicable solely to systems with aboveground storage tanks. Because the TP is used for both aboveground and underground tank systems, section

94153 is modified to delete the implied limitation on the applicability of the TP.

IV. Summary of Comments and Testimony Received in Response to 45-Day Notice and received at Hearing and Agency Responses

At the October 25th Board Hearing a written statement of its public testimony was submitted by the San Diego County Air Pollution Control District on behalf of the California Air Pollution Control Officers' Association (CAPCOA) Vapor Recovery Committee. No other written comments were received in response to the 45-day Notice period from September 7, 2001 through October 25, 2001. The testimony is summarized below with the Board's response.

Certification Procedure CP-201

Comment by San Diego Air Pollution Control District on Behalf of California Air Pollution Officers' Association (CAPCOA) Vapor Recovery Committee
CAPCOA would like the definition of "Phase I System Specific Components" to be revised to include spill containers, drain valve configuration, product and vapor adaptors, and drop-tube overfill prevention devices.

Response
This change was made.

V. Summary of Comments Received in Response to the 30-Day Notice of Modifications

During the comment period on the modifications, two comment letters were received one from the Western States Petroleum Association (WSPA) and one from the Ventura County Air Pollution Control District. The comments in these two letters are summarized below with the staff response.

Definitions for Vapor Recovery Procedures D-200

Comment in April 22, 2002 letter from Ventura County Air Pollution Control District (VCAPCD)
VCAPCD recommends that the modified definition for "major modification" be further modified for clarity. Specifically, the modified definition includes the phrase "… a modification that causes the tank top to be unburied…," which suggests to the commenter that major modifications require the breaking of ground or concrete. VCAPCD suggests that certain major modifications may not require the breaking of the ground or concrete if the underground tank is equipped with secondary containment sumps around the vapor and product risers. VCAPCD further suggests that the definition be amended to include an expanded list of activities, which are considered major modifications. For example, replacement of secondary

containment sumps and replacement of vapor or product risers should be considered major modifications.

Response:
No change made. ARB intends that the phrase "modification that causes the tank top to be unburied" is to include those modifications that result in the exposure of the top surface of the underground storage tank as "major modifications" that will trigger compliance with revised standards. For example, if a GDF operator, in order to comply with water quality regulations, modifies the Phase I system equipment, the Phase I system should meet EVR requirements because the opportunity exists and because the Phase I system modifications result in an "altered" system which ends the applicability of the grace period under H&SC section 41956.1 for continued use of the decertified system.

ARB intends the definition to allow continued use of an "old," decertified Phase I system if the replacement is to an easily accessible part. For example, if a spill container located in a secondary containment sump needs replacement, the requirement to install a Phase I EVR system would not be triggered because the replacement involves an easily accessible component. This distinction is consistent with H&SC section 41956.1, in which differing treatment for systems and replacement parts is authorized. Section 19 of CP-201 provides further clarification of how replacement parts may be used in existing GDFs with installed, pre-EVR systems.

Comment in April 22, 2002 letter from Western States Petroleum Association (WSPA)
WSPA is concerned that the revised language in the proposed definition of "major modification" may be too broad and may require major upgrades at facilities where only routine maintenance has been performed. The phrase "… or modification that causes the tank top to be unburied…" considerably expands the maintenance activities that are covered by the definition. For example, replacing spill containers could cause a portion of the tank top to become exposed.

In addition, WSPA is concerned that when Phase II EVR systems are certified, replacement of a Phase I system will also trigger the requirement to install a new Phase II system. For example, replacement or removal of 50% or more of the vapor return piping might occur when upgrading a Phase I system, which would trigger the requirement to install a Phase II EVR system. WSPA suggests that the definition be revised as follows: "modification of the Phase I system that involves the addition, replacement, or removal of and underground storage tank or modification that causes the tank top to be unburied, is considered a major modification of the Phase I system."

Response

Item 1: No change made. The intent of the phrase "...modification that causes the tank top to be unburied…" is not to require the GDF operator to upgrade to an EVR system if the component in need of replacement is easily accessible. For example, if a spill container located in a secondary containment sump needs replacement, the requirement to install a Phase I EVR system would not be triggered because the replacement involves an easily accessible component. Section 19, of CP-201 provides further clarification regarding how replacement parts may be used in conjunction with existing GDFs with installed, pre-EVR systems.

Item 2: The proposed revised definition of "major modification" as noticed in the 30 day Notice of Public Availability of Modified Text contained a typographical error in the second to the last sentence in the paragraph describing Phase II major modifications. The reference to the "Phase I system" is incorrect and was intended to read "Phase II system". Therefore, the definition of Phase II major modification is corrected to read:

"modification of the Phase II system that involves the addition, replacement or removal of 50 percent or more the buried vapor piping, or the replacement of dispensers, is considered a major modification of the Phase II system. The replacement of a dispenser is not a major modification when the replacement is occasioned by end user damage to a dispenser."

Certification Procedure CP-201

Comment in April 22, 2002 letter from Western States Petroleum Association (WSPA)

One of the key concerns for WSPA and its members is the matter of reclassification of several non specific Phase I components to system specific requiring that they be included in all Phase I system certifications. This change was made without the sharing of specific reasons and data demonstration the need for such classification. WSPA respectfully request that CARB provide information, data and supporting documentation so we may have an opportunity to review the concerns expressed by CAPCOA. WSPA suggests that listing Phase I components as system specific reduces the potential number of equivalent components that the operator could choose from to satisfy Phase I requirements. After Phase I systems become EVR certified, the identified components should become interchangeable among other Phase I certified systems.

Response

No change made. The concept of listing certain Phase I vapor recovery components as "system specific" was request by the CAPCOA Vapor Recovery Committee during the October 25, 2001 Board Hearing. Phase I system specific components are necessary because according to Certification Procedure CP-201, CARB is required to certify "vapor recovery systems", rather than individual

components. Those components that come into direct contact with liquid gasoline during a fuel delivery are considered system specific. In addition, this change is desirable because local air pollution control districts and repair companies can easily identify certified Phase I vapor recovery systems when the Executive Orders contain system specific configurations.