State of California
AIR RESOURCES BOARD

Amendments to the Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities and Cargo

Resolution 13-32

July 25, 2013

Agenda Item No.: 13-7-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or the Board) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 41954 of the Health and Safety Code requires the Board to adopt procedures, including performance standards, for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations;

WHEREAS, section 41962 of the Health and Safety Code requires the Board to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions from cargo tanks that deliver fuel from bulk storage facilities to Gasoline Dispensing Facilities (GDF);

WHEREAS, the Board has adopted Enhanced Vapor Recovery regulations for certification and testing of vapor recovery systems installed at GDFs, as set forth in title 17, California Code of Regulations (CCR), sections 94011 and 94016, and the documents incorporated by reference therein;

WHEREAS, the Board has adopted regulations for certification and testing of vapor recovery systems installed on cargo tanks, as set forth in title 17, CCR, section 94014, and the documents incorporated by reference therein;

WHEREAS, ARB staff has identified improvements for existing GDF and cargo tank vapor recovery certification and test procedures, which consist of the amendments set forth in Attachment A hereto;

WHEREAS, ARB staff has proposed amendments to title 17, CCR, sections 94011, 94014, and 94016, which incorporate by reference the identified amended certification and test procedures for vapor recovery systems at GDFs and cargo tanks, set forth in Attachment B hereto;

WHEREAS, ARB staff has prepared an Initial Statement of Reasons document (ISOR), released June 5, 2013, which presents the rationale and basis for the proposed regulatory changes set forth in Attachments A and B hereto;

WHEREAS, the proposed amendments to GDF and cargo tank vapor recovery regulations, and incorporated documents, as set forth in Attachment A hereto will achieve the following:

> Resolve technical problems that currently exist with two test procedures used by the Executive Officer when certifying vapor recovery equipment for aboveground storage tanks; and
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> Reconcile outdated cargo tank certification and test procedures with current ARB policy and industry practices, and provide additional flexibility for cargo tank owners to remain in compliance with performance standards.

WHEREAS, ARB staff conducted four public workshops regarding the proposed amendments and also participated in meetings with various stakeholders in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, staff prepared a Regulatory Notice and ISOR for these provisions and presented them to the Board with a single coordinated analysis of emissions, cost, and associated environmental impacts and benefits;

WHEREAS, the Board has considered the impact of this proposed regulatory action on the economy of the State;

WHEREAS, the Board has considered the community impacts of the proposed regulatory amendments, including environmental justice concerns;

WHEREAS, the California Environmental Quality Act (CEQA) requires that a public agency not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental impacts of such a project; in the event that specific economic, social, or other conditions make infeasible the alternatives or mitigation measures, the project may be approved if it is determined that any remaining unavoidable significant impacts are acceptable due to overriding considerations;

WHEREAS, Public Resources Code section 21080.5 allows public agencies with regulatory programs to prepare a plan or other written document in lieu of an environmental impact report or negative declaration once the Secretary of the Resources Agency has certified the regulatory program;

WHEREAS, that portion of ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of Resources Agency (CEQA Guidelines, section 15251(d));

WHEREAS, in accordance with ARB's certified regulatory program at title 17, CCR, section 60005 (b), and the policy and substantive requirements of CEQA, as part of the ISOR, ARB staff has prepared an assessment of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulation and a succinct analysis of those impacts;

WHEREAS, the environmental analysis found that the amendments will not result in any significant adverse impacts on the environment;

WHEREAS, the ISOR and proposed amendments were made available to the public for at least 45 days prior to the public hearing to consider the proposed regulation;

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, pursuant to section 11346.9 of the Government Code, staff is preparing a Final Statement of Reasons with responses to comments received on the record during the initial 45-day comment period, and comments presented at the July 25 Board hearing (both orally and in writing);

WHEREAS, the proposed changes to the certification and test procedures, and to title 17, CCR, sections 94011, 94014, and 94016, which incorporate by reference the amended certification and test procedure documents, are reasonable and necessary to achieve and maintain ambient air quality standards;

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

WHEREAS, in consideration of the ISOR, written comments, and public testimony it has received, the Board finds that:

> Amendment and adoption of the provisions of title 17, CCR, as set forth in Attachment B hereto, and the incorporation of the proposed amended vapor recovery certification and test procedures as set forth in Attachment A hereto, are necessary and appropriate to satisfy the requirements of sections 41954 and 41962 of the Health and Safety Code;
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> 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;
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> On the basis of the whole record, including the environmental analysis included in the ISOR and comments received, there is no substantial evidence that the regulation will result in any significant adverse impacts on the environment; and

The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption sections 94011, 94014, and 94016, Title 17, CCR, and the incorporated certification and test procedures, as set forth in Attachments A and B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the Executive Officer shall adopt the modified regulation after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such further modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if he determines that this is warranted.

FILED
MAY 28 2014
Resources Agency of California

I hereby certify that the above is a true and correct copy of Resolution 13-32, as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board

Resolution 13-32

July 25, 2013

Identification of Attachments to the Board Resolution

Attachment A: Proposed Modifications to the Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities and Cargo Tanks, as set forth in Appendix C through Appendix H of the Initial Statement of Reasons released June 5, 2013.

Attachment B: Proposed Modifications to the Regulation for Certification and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities and Cargo Tanks, California Code of Regulations, title 17, sections 94011, 94014, and 94016, as set forth in Appendix A of the Initial Statement of Reasons released June 5, 2013.