State of California
AIR RESOURCES BOARD

NEW AND AMENDED CERTIFICATION PROCEDURES FOR VAPOR RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES

Resolution 15-8

April 23, 2015

Agenda Item No.: 15-3-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or 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 compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations;

WHEREAS, section 41954 of the Health and Safety Code also requires the Board to, after a public hearing, adopt additional performance standards that are reasonable and necessary to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage and excessive evaporative emissions from liquid retained in the dispensing nozzle or vapor return hose between refueling events, when used in a proper manner;

WHEREAS, the Board has adopted Enhanced Vapor Recovery (EVR) regulations for the certification and testing of vapor recovery systems installed at gasoline dispensing facilities (GDF) as set forth in California Code of Regulations (CCR), title 17, sections 94010, 94011 and 94016, and the documents incorporated by reference therein;

WHEREAS, ARB's EVR regulations include requirements for Phase I vapor recovery systems, which collect vapors that are displaced during bulk fuel transfer when a tanker truck fills the service station storage tank, and Phase II vapor recovery systems, which collect vapors produced during vehicle refueling by the gasoline consumer;

WHEREAS, ARB staff has found that allowing the continued use of pre-EVR Phase I systems in certain aboveground storage tanks (AST) will provide relief for many AST operators and improve cost effectiveness while still achieving emissions reductions in areas where they are most needed;

WHEREAS, ARB staff has found that additional amendments to the certification procedures are necessary to ensure that mass-produced vapor recovery equipment

matches the performance standards and specifications of the equipment as evaluated during ARB certification;

WHEREAS, air districts have exempted from Phase II EVR requirements certain non-retail GDFs that primarily refuel vehicles that are equipped with on-board controls, but no standards currently exist to control liquid releases from nozzles used at these exempted non-retail GDFs;

WHEREAS, technology exists in EVR nozzles that can be readily transferred to nozzles used at exempted non-retail GDFs and can reduce emissions from spillage, spitting, liquid retention, and post fueling drips;

WHEREAS, ARB staff has proposed new and amended certification procedures and performance standards for spillage, spitting, liquid retention, and post fueling drip for such nozzles used in exempted non-retail GDFs, which are set forth in Attachment B hereto;

WHEREAS, ARB staff has proposed amendments to CCR, title 17, sections 94010, 94011, and 94016, which incorporate by reference the identified amended certification procedures for vapor recovery systems at GDFs, as set forth in Attachment A hereto;

WHEREAS, ARB staff has proposed adoption of CCR, title 17, section 94017, as set forth in Attachment A hereto, which incorporates by reference a new certification procedure, CP-207, Certification Procedure for Enhanced Conventional (ECO) Nozzles and Low Permeation Conventional Hoses for Use at Gasoline Dispensing Facilities, as set forth in Attachment B hereto;

WHEREAS, ARB staff has prepared an Initial Statement of Reasons document (ISOR or Staff Report) released on March 3, 2015, which presents the rationale and basis for the proposed regulatory changes as set forth in Attachments A and B, hereto;

WHEREAS, the proposed amendments to GDF vapor recovery regulations, and incorporated documents, as set forth in Attachments A and B will achieve the following:

> Establish new certification procedures and performance standards for enhanced conventional (ECO) nozzles, which will control liquid releases from nozzles used at GDFs that are exempted from Phase II EVR requirements because they primarily fuel vehicles that are equipped with on-board vapor controls;
>
> Allow certain ASTs to retain their pre-EVR Phase I systems while continuing to require ASTs located in areas with poor ozone air quality to upgrade to Phase I EVR, which will provide relief for many AST operators and improve cost effectiveness while still achieving emissions reductions in areas where they are most needed; and
>
> Clarify the information that vapor recovery manufacturers must include in a certification application, which will help ensure that mass-produced vapor recovery equipment matches the performance standards and specifications of the equipment as evaluated during ARB certification.

WHEREAS, ARB staff conducted thirteen public workshops to address technical and regulatory issues related to the proposed amendments in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, ARB prepared an environmental analysis under its certified regulatory program for the proposed amendments, and circulated it as part of the Staff Report for 45 days; the environmental analysis concluded there is no substantial evidence to support a fair argument that the proposed amendments will result in any significant adverse impacts on the environment;

WHEREAS, no comments were received during the 45-day comment period that raise significant environmental issues associated with the proposal and no approval of written responses to environmental comments is required under California Code of Regulations, title 17, section 60007;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board finds that:

> Amendment of the provisions of CCR, title 17, as set forth in Attachment B hereto, and the incorporation of the proposed amended vapor recovery certification procedure as set forth in Attachment A hereto, are reasonable and necessary to satisfy the requirements of sections 41954 and 41956.1 of the Health and Safety Code;
>
> The proposed regulations were developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;
>
> No reasonable alternatives to the regulations considered to date, or that have otherwise been identified and brought to the attention of ARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;
>
> The proposed regulations are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income, and

On the basis of the whole record, including the environmental analysis included in the Staff Report, no substantial evidence exists to support a fair argument that the proposed amendments will result in any significant adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption CCR, title 17, sections 94010, 94011, 94016, and 94017, and the certification procedures incorporated by reference therein, as set forth in Attachments A and B.

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, and B. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15 day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by ARB's regulations at California Code of Regulations, title 17, sections 60000-60007, and prepare written responses to any comments received raising significant environmental issues as necessary, to present to the Board for approval along with the final regulation.

I hereby certify that the above is a true and correct copy of Resolution 15-8 as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board

Resolution 15-8

April 23, 2015

Attachment A: Proposed Modifications to the Regulations for Certification Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities, California Code of Regulations, title 17, sections 94010, 94011, 94016, and 94017 as set forth in Appendix A to the Initial Statement of Reasons, released March 3, 2015.

Attachment B: Proposed Modifications to the Certification Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities, as set forth in Appendix B through E of the Initial Statement of Reasons, released March 3, 2015.