

State of California  
AIR RESOURCES BOARD

**EXECUTIVE ORDER R-13-001**

*Relating to the Resubmittal Package to the Office of Administrative Law for Amendments to Vapor Recovery Certification and Test Procedures for Underground and Aboveground Storage Tanks including Gasoline Dispensing Facility Hose Regulation*

WHEREAS, on September 22, 2011, the Air Resources Board (ARB or Board) conducted a public hearing to consider for approval the proposed amendments to the Vapor Recovery Definitions, Certification and Test Procedures for Underground and Aboveground Storage Tanks including the Gasoline Dispensing Facility Hose Regulation, as set forth in the Initial Statement of Reasons released to the public on August 3, 2011;

WHEREAS, following the public hearing on September 22, 2011, the Board adopted Resolution 11-29, in which the Board approved for adoption proposed amendments to title 17, California Code of Regulations, sections 94010, 94011, 94016, 94150, and 94168, and the incorporated Vapor Recovery Definitions, Certification and Test Procedures for Gasoline Dispensing Facilities, as set forth in Attachment A and B thereto;

WHEREAS, Resolution 11-29 directed the Executive Officer to take final action to adopt the regulatory amendments set forth in Attachments A and B to Resolution 11-29, with such other conforming modifications as may be appropriate, after making the modified regulatory language available to the public for a period of at least 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 or as necessary to ensure consistency with the modifications approved by the Board, and shall present the regulatory amendments to the Board for further consideration if he determines that this is warranted;

WHEREAS, on February 10, 2012, the modified regulations, reflecting the amendments approved by the Board and other changes made to best reflect the intent of the Board at the hearing, were made available for public comment for a period of at least 15 days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of the California Code of Regulations, title 1, section 44;

WHEREAS, one written comment was received during the 15-day comment period and that comment was considered by the Executive Officer.

WHEREAS, the Executive Officer adopted the vapor recovery certification and test procedures for underground and aboveground storage tanks including gasoline dispensing facility hose regulation by Executive Order R-12-004, dated July 26, 2012, and submitted the rulemaking package to the Office of Administrative Law for review in accordance with the California Administrative Procedure Act (APA);

WHEREAS, on September 17, 2012, the Office of Administrative Law issued a Decision of Disapproval of Regulatory Action;

WHEREAS, modifications to the approved regulations were made in order to correct the deficiencies specified in the Decision of Disapproval by the Office of Administrative Law;

WHEREAS, the modifications were made available for a second 15-day comment period starting October 26, 2012, in accordance with the provisions of section 44, title 1, CCR, with the modifications clearly indicated; and

WHEREAS, two comments were received during the second 15-day comment period and those comments have been considered by the Executive Officer.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 11-29 and Executive Order R-12-004 are incorporated by reference herein.

IT IS FURTHER ORDERED that sections 94010, 94011, 94016, 94150, and 94168, title 17, CCR, and the incorporated D – 200 - Definitions for Vapor Recovery Procedures, CP – 201 - Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities, and CP - 206 - Vapor Recovery Certification Procedure, are adopted as set forth in Attachment 1 to this Order.

IT IS FURTHER ORDERED that the adopted regulatory text may be further revised with nonsubstantial or grammatical changes, which will be added to the rulemaking record and indicated as such.

Executed this 9th day of January 2013, at Sacramento, California.

/s/

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James N. Goldstene  
Executive Officer

Attachment