

State of California
AIR RESOURCES BOARD

Executive Order G-01-011

Relating to the Emergency Amendment of
Title 17, California Code of Regulations, Section 94011

WHEREAS, on March 23, 2000, the Air Resources Board (ARB or Board) conducted a public hearing to consider the adoption of amendments to the regulations for certification and testing of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities), as set forth in the Initial Statement of Reasons and Staff Report released to the public on February 4, 2000;

WHEREAS, following the public hearing on March 23, 2000, the Board adopted Resolution 00-9, in which the Board approved amendments to sections 60030, 94010, 94011, 94148, 94149 and 94154, title 17, California Code of Regulations (CCR) and the documents incorporated by reference therein and adoption of new section 94163, title 17, CCR, and the document incorporated by reference therein;

WHEREAS, after modification as approved by the Board in Resolution 00-9, ARB Executive Officer by Executive Order G-01-001, dated February 1, 2001, adopted the regulatory action as set forth in Attachment 1 thereto, and submitted the regulatory action to the Office of Administrative Law (OAL) on February 2, 2001;

WHEREAS, on March 20, 2001, OAL approved the amendments to sections 60030, 94010, 94011, 94148, 94149 and 94154, title 17, California Code of Regulations (CCR) and the documents incorporated by reference therein and adoption of new section 94163, title 17, CCR, and the document incorporated by reference therein;

WHEREAS, Certification Procedure CP-201, Certification Procedure of Vapor Recovery Systems of Dispensing Facilities (CP-201) is among the incorporated documents of title 17, CCR, section 94011;

WHEREAS, I, Michael P. Kenny, as Executive Officer of the Air Resources Board, am currently evaluating a vapor recovery system for certification under CP-201 and anticipate certification of the system in June 2001, provided it meets all regulatory requirements;

WHEREAS, on March 20, 2001, OAL disapproved section 18 of CP-201 based the March 27, 2001, decision that section 18 did not meet the clarity standard of Government Code section 11349.1;

WHEREAS, Government Code section 94154 provides for the revocation of vapor recovery system certifications if the systems no longer meet the required specifications or standards for certification;

WHEREAS, the Board approved section 18 of CP-201 to establish a limitation on the duration of vapor recovery system certifications;

WHEREAS, without the inclusion of section 18 in CP-201, vapor recovery system certifications have no expiration date, and revocation of certification will be the sole recourse for the ARB to take action on system certifications that no longer meet the required specifications or standards for certification;

WHEREAS, CP-201 section 18 is necessary to effectuate the purposes of CP-201, as approved by the Board in Resolution 00-09, specifically the improvement of the certification procedures for vapor recovery systems;

WHEREAS, in response to the OAL decision disapproving section 18, the Executive Officer, as authorized by Resolution 00-09, has modified CP-201 section 18 for clarity; and

WHEREAS, in further response to the OAL decision, emergency regulations are necessary for the immediate preservation of the public peace, health and safety or general welfare.

IT IS ORDERED, that title 17, CCR, section 94011, and the incorporated CP-201, be amended, as set forth in the attached Emergency Regulation Order.

IT IS FURTHER ORDERED, that the regulation and its incorporated certification procedure be submitted to the OAL as an emergency rulemaking action to effectuate the purpose of the CP-201, specifically the immediate improvement of the certification and test procedures for vapor recovery systems, and to secure regulatory continuity.

IT IS FURTHER ORDERED, that the recitals and findings contained in Resolution 00-09 be incorporated herein.

Executed this _____ day of May 2001, at Sacramento, California.

Michael P. Kenny
Executive Officer

Attachment