

## Appendix 3

### Vapor Recovery Health and Safety Code Statutes

## **H&S 41950 Vapor Recovery Systems for Stationary Gas Tanks**

41950. (a) Except as provided in subdivisions (b) and (e), no person shall install or maintain any stationary gasoline tank with a capacity of 250 gallons or more which is not equipped for loading through a permanent submerged fill pipe, unless such tank is a pressure tank as described in Section 41951, or is equipped with a vapor recovery system as described in Section 41952 or with a floating roof as described in Section 41953, or unless such tank is equipped with other apparatus of equal efficiency which has been approved by the air pollution control officer in whose district the tank is located.

(b) Subdivision (a) shall not apply to any stationary tanks installed prior to December 31, 1970.

(c) For the purpose of this section, "gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds or greater.

(d) For the purpose of this section, "submerged fill pipe" means any fill pipe which has its discharge opening entirely submerged when the liquid level is six inches above the bottom of the tank. "Submerged fill pipe," when applied to a tank which is loaded from the side, means any fill pipe which has its discharge opening entirely submerged when the liquid level is 18 inches above the bottom of the tank.

(e) Subdivision (a) shall not apply to any stationary tank which is used primarily for the fueling of implements of husbandry.

(Added by Stats. 1975, Ch. 957.)

## **H&S 41951 Definition of Pressure Tank**

41951. A "pressure tank" is a tank which maintains working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere.

(Added by Stats. 1975, Ch. 957.)

## **H&S 41952 Definition of Vapor Recovery System**

41952. A "vapor recovery system" consists of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such

hydrocarbon vapors and gases so as to prevent their emission into the atmosphere, with all tank gauging and sampling devices gastight except when gauging or sampling is taking place.

(Added by Stats. 1975, Ch. 957.)

#### **H&S 41953 Definition of Floating Roof**

41953. A "floating roof" consists of a pontoon-type or double-deck-type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment required by this section shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gastight except when gauging or sampling is taking place.

(Added by Stats. 1975, Ch. 957.)

#### **H&S 41954 ARB Shall Certify Vapor Recovery Systems**

41954. (a) The state board shall adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards that are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall, 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. To the maximum extent practicable, the additional performance standards shall allow flexibility in the design of gasoline vapor recovery systems and their components.

(c) (1) The state board shall certify, in cooperation with the districts, only those gasoline vapor control systems that it determines will meet the following requirements, if properly installed and maintained:

(A) The systems will meet the requirements of subdivision (a).

(B) With respect to any system designed to control gasoline vapors

during vehicle refueling, that system, based on an engineering evaluation of that system's component qualities, design, and test performance, can be expected, with a high degree of certainty, to comply with that system's certification conditions over the warranty period specified by the board.

(C) With respect to any system designed to control gasoline vapors during vehicle refueling, that system shall be compatible with vehicles equipped with onboard refueling vapor recovery (ORVR) systems.

(2) The state board shall enumerate the specifications used for issuing the certification. After a system has been certified, if circumstances beyond the control of the state board cause the system to no longer meet the required specifications or standards, the state board shall revoke or modify the certification.

(d) The state board shall test, or contract for testing, gasoline vapor control systems for the purpose of determining whether those systems may be certified.

(e) The state board shall charge a reasonable fee for certification, not to exceed its actual costs therefor. Payment of the fee shall be a condition of certification.

(f) No person shall offer for sale, sell, or install any new or rebuilt gasoline vapor control system, or any component of the system, unless the system or component has been certified by the state board and is clearly identified by a permanent identification of the certified manufacturer or rebuilder.

(g) (1) Except as authorized by other provisions of law and except as provided in this subdivision, no district may adopt, after July 1, 1995, stricter procedures or performance standards than those adopted by the state board pursuant to subdivision (a), and no district may enforce any of those stricter procedures or performance standards.

(2) Any stricter procedures or performance standards shall not require the retrofitting, removal, or replacement of any existing system, which is installed and operating in compliance with applicable requirements, within four years from the effective date of those procedures or performance standards, except that existing requirements for retrofitting, removal, or replacement of nozzles with nozzles containing vapor-check valves may be enforced commencing July 1, 1998.

(3) Any stricter procedures or performance standards shall not be

implemented until at least two systems meeting the stricter performance standards have been certified by the state board.

(4) If the certification of a gasoline vapor control system, or a component thereof, is revoked or modified, no district shall require a currently installed system, or component thereof, to be removed for a period of four years from the date of revocation or modification.

(h) No district shall require the use of test procedures for testing the performance of a gasoline vapor control system unless those test procedures have been adopted by the state board or have been determined by the state board to be equivalent to those adopted by the state board, except that test procedures used by a district prior to January 1, 1996, may continue to be used until January 1, 1998, without state board approval.

(i) With respect to those vapor control systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements meets both of the following requirements:

(1) Has been certified by the state board at an efficiency or emission factor required by applicable statutes, rules, or regulations.

(2) Is installed, operated, and maintained in accordance with the requirements set forth in the document certification and the instructions of the equipment manufacturer.

(Amended by Stats. 2000, Ch. 729, Sec. 14.)

References at the time of publication (see page iii):

Regulations:

17, CCR, sections 94006, 94010, 94011, 94012, 94013, 94014, 94015, 94148, 94149, 94150, 94151, 94152, 94153, 94154, 94155, 94156, 94157, 94158, 94159, 94160, 94163

### **H&S 41955 Certification Required by Other Agencies**

41955. Prior to state board certification of a gasoline vapor control system pursuant to Section 41954, the manufacturer of the system shall submit the system to, or, if appropriate, the components

of the system as requested by, the Division of Measurement Standards of the Department of Food and Agriculture and the State Fire Marshal for their certification.

(Added by Stats. 1976, Ch. 1030.)

### **H&S 41956 Other Agencies to Adopt Rules for Certification**

41956. (a) As soon as possible after the effective date of this section, the State Fire Marshal and the Division of Measurement Standards, after consulting with the state board, shall adopt rules and regulations for the certification of gasoline vapor control systems and components thereof.

(b) The State Fire Marshal shall be the only agency responsible for determining whether any component or system creates a fire hazard. The division shall be the only agency responsible for the measurement accuracy aspects, including gasoline recirculation of any component or system.

(c) Within 120 days after the effective date of this subdivision, the Division of Measurement Standards, shall, after public hearing, adopt rules and regulations containing additional performance standards and standardized certification and compliance test procedures which are reasonable and necessary to prevent gasoline recirculation in systems for the control of gasoline vapors resulting from motor vehicle fueling operations.

(Amended by Stats. 1981, Ch. 902.)

### **H&S 41956.1 Revision of Standards for Vapor Recovery Systems**

41956.1. (a) Whenever the state board, the Division of Measurement Standards of the Department of Food and Agriculture, or the State Fire Marshal revises performance or certification standards or revokes a certification, any systems or any system components certified under procedures in effect prior to the adoption of revised standards or the revocation of the certification and installed prior to the effective date of the revised standards or revocation may continue to be used in gasoline marketing operations for a period of four years after the effective date of the revised standards or the revocation of the certification. However, all necessary repair or replacement parts or components shall be certified.

(b) Notwithstanding subdivision (a), whenever the State Fire

Marshal determines that a system or a system component creates a hazard to public health and welfare, the State Fire Marshal may prevent use of the particular system or component.

(c) Notwithstanding subdivision (a), the Division of Measurement Standards may prohibit the use of any system or any system component if it determines on the basis of test procedures adopted pursuant to subdivision (c) of Section 41956, that use of the system or component will result in gasoline recirculation.

(Amended by Stats. 1996, Ch. 426, Sec. 2.)

References at the time of publication (see page iii):

Regulations: 17, CCR, section 94011

### **H&S 41957 Division of Industrial Safety Responsibilities**

41957. The Division of Occupational Safety and Health of the Department of Industrial Relations is the only agency responsible for determining whether any gasoline vapor control system, or component thereof, creates a safety hazard other than a fire hazard.

If the division determines that a system, or component thereof, creates a safety hazard other than a fire hazard, that system or component may not be used until the division has certified that the system or component, as the case may be, does not create that hazard.

The division, in consultation with the state board, shall adopt the necessary rules and regulations for the certification if the certification is required.

(Amended by Stats. 1981, Ch. 714.)

### **H&S 41958 Rules Shall Allow for Flexibility in Design**

41958. To the maximum extent practicable, the rules and regulations adopted pursuant to Sections 41956 and 41957 shall allow flexibility in the design of gasoline vapor control systems and their components. The rules and regulations shall set forth the performance standards as to safety and measurement accuracy and the minimum procedures to be followed in testing the system or component for compliance with the performance standards.

The State Fire Marshal, the Division of Occupational Safety and

Health, and the Division of Measurement Standards shall certify any system or component which complies with their adopted rules and regulations. Any one of the state agencies may certify a system or component on the basis of results of tests performed by any entity retained by the manufacturer of the system or component or by the state agency. The requirements for the certification of a system or component shall not require that it be tested, approved, or listed by any private entity, except that certification testing regarding recirculation of gasoline shall include testing by an independent testing laboratory.

(Amended by Stats. 1982, Ch. 466, Sec. 72.)

### **H&S 41959 Certification Testing**

41959. Certification testing of gasoline vapor control systems and their components by the state board, the State Fire Marshal, the Division of Measurement Standards, and the Division of Occupational Safety and Health may be conducted simultaneously.

(Amended by Stats. 1981, Ch. 714.)

References at the time of publication (see page iii):

Regulations: 17, CCR, sections 94010, 94011, 94012, 94013

### **H&S 41960 Certification by State Agencies Sufficient**

41960. (a) Certification of a gasoline vapor recovery system for safety and measurement accuracy by the State Fire Marshal and the Division of Measurement Standards and, if necessary, by the Division of Occupational Safety and Health shall permit its installation wherever required in the state, if the system is also certified by the state board.

(b) Except as otherwise provided in subdivision (g) of Section 41954, no local or regional authority shall prohibit the installation of a certified system without obtaining concurrence from the state agency responsible for the aspects of the system which the local or regional authority disapproves.

(Amended by Stats. 1996, Ch. 426, Sec. 3.)

References at the time of publication (see page iii):

Regulations: 17, CCR, sections 94011, 94012, 94013



## **H&S 41960.1 Operation in Accordance with Standards**

41960.1. (a) All vapor control systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall be operated in accordance with the applicable standards established by the State Fire Marshal or the Division of Measurement Standards pursuant to Sections 41956 to 41958, inclusive.

(b) When a sealer or any authorized employee of the Division of Measurement Standards determines, on the basis of applicable test procedures of the division, adopted after public hearing, that an individual system or component for the control of gasoline vapors resulting from motor vehicle fueling operations does not meet the applicable standards established by the Division of Measurement Standards, he or she shall take the appropriate action specified in Section 12506 of the Business and Professions Code.

(c) When a deputy State Fire Marshal or any authorized employee of a fire district or local or regional firefighting agency determines that a component of a system for the control of gasoline vapors resulting from motor vehicle fueling operations does not meet the applicable standards established by the State Fire Marshal, he or she shall mark the component "out of order." No person shall use or permit the use of the component until the component has been repaired, replaced, or adjusted, as necessary, and either the component has been inspected by a representative of the agency employing the person originally marking the component, or the person using or permitting use of the component has been expressly authorized by the agency to use the component pending reinspection.

(Added by Stats. 1981, Ch. 902.)

## **H&S 41960.2 Maintenance of Installed Systems**

41960.2. (a) All installed systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall be maintained in good working order in accordance with the manufacturer's specifications of the system certified pursuant to Section 41954.

(b) Whenever a gasoline vapor recovery control system is repaired or rebuilt by someone other than the original manufacturer or its authorized representative, the person shall permanently affix a plate to the vapor recovery control system that identifies the repairer or rebuilder and specifies that only certified equipment was used. In

addition, a rebuilder of a vapor control system shall remove any identification of the original manufacturer if the removal does not affect the continued safety or performance of the vapor control system.

(c) (1) The executive officer of the state board shall identify and list equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations that substantially impair the effectiveness of the systems in reducing air contaminants. The defects shall be identified and listed for each certified system and shall be specified in the applicable certification documents for each system.

(2) On or before January 1, 2001, and at least once every three years thereafter, the list required to be prepared pursuant to paragraph (1) shall be reviewed by the executive officer at a public workshop to determine whether the list requires an update to reflect changes in equipment technology or performance.

(3) Notwithstanding the timeframes for the executive officer's review of the list, as specified in paragraph (2), the executive officer may initiate a public review of the list upon a written request that demonstrates, to the satisfaction of the executive officer, the need for such a review. If the executive officer determines that an update is required, the update shall be completed no later than 12 months after the date of the determination.

(d) When a district determines that a component contains a defect specified pursuant to subdivision (c), the district shall mark the component "Out of Order." No person shall use or permit the use of the component until the component has been repaired, replaced, or adjusted, as necessary, and the district has reinspected the component or has authorized use of the component pending reinspection.

(e) Where a district determines that a component is not in good working order but does not contain a defect specified pursuant to subdivision (c), the district shall provide the operator with a notice specifying the basis on which the component is not in good working order. If, within seven days, the operator provides the district with adequate evidence that the component is in good working order, the operator shall not be subject to liability under this division.

(Amended by Stats. 1999, Ch. 501, Sec. 1.)

References at the time of publication (see page iii):

Regulations: 17, CCR, sections 94006, 94010, 94011

### **H&S 41960.3 Telephone Number for Reporting Problems**

41960.3. (a) Each district which requires the installation of systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall establish a toll free telephone number for use by the public in reporting problems experienced with the systems. Districts within an air basin or adjacent air basin may enter into a cooperative program to implement this requirement. All complaints received by a district shall be recorded on a standardized form which shall be established by the state board, in consultation with districts, the State Fire Marshal, and the Division of Measurement Standards in the Department of Food and Agriculture. The operating instructions required by Section 41960.4 shall be posted at all service stations at which systems for the control of gasoline vapors resulting from motor vehicle fueling operations are installed and shall include a prominent display of the toll free telephone number for complaints in the district in which the station is located.

(b) Upon receipt of each complaint, the district shall diligently either investigate the complaint or refer the complaint for investigation by the state or local agency which properly has jurisdiction over the primary subject of the complaint. When the investigation has been completed, the investigating agency shall take such remedial action as is appropriate and shall advise the complainant of the findings and disposition of the investigation. A copy of the complaint and response to the complaint shall be forwarded to the state board.

(Amended by Stats. 1986, Ch. 194, Sec. 1.)

### **H&S 41960.4 Operating Instructions**

41960.4. The operator of each service station utilizing a system for the control of gasoline vapors resulting from motor vehicle fueling operations shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the station and shall include a warning that repeated attempts to continue dispensing, after the system having indicated that the vehicle fuel tank is full, may result in spillage or recirculation of gasoline.

(Added by Stats. 1981, Ch. 902.)

## **H&S 41960.5 Nozzle Size Requirements**

41960.5. (a) No retailer, as defined in Section 20999 of the Business and Professions Code, shall allow the operation of any gasoline pump from which leaded gasoline is dispensed, or which is labeled as providing leaded gasoline, unless the pump is equipped with a nozzle spout meeting the required specifications for leaded gasoline nozzle spouts set forth in Title 40, Code of Federal Regulations, Section 80.22(f)(1).

(b) For the purpose of this section, "leaded gasoline" means gasoline which is produced with the use of any lead additive or which contains more than 0.05 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon.

(Added by Stats. 1987, Ch. 592, Sec. 2.)

## **H&S 41960.6 Fuel Pump Nozzles**

41960.6. (a) No retailer, as defined in subdivision (g) of Section 20999 of the Business and Professions Code, shall, on or after July 1, 1992, allow the operation of a pump, including any pump owned or operated by the state, or any county, city and county, or city, equipped with a nozzle from which gasoline or diesel fuel is dispensed, unless the nozzle is equipped with an operating hold open latch. Any hold open latch determined to be inoperative by the local fire marshal or district official shall be repaired or replaced by the retailer, within 48 hours after notification to the retailer of that determination, to avoid any applicable penalty or fine.

(b) For purposes of this section, a "hold open latch" means any device which is an integral part of the nozzle and is manufactured specifically for the purpose of dispensing fuel without requiring the consumer's physical contact with the nozzle.

(c) Subdivision (a) does not apply to nozzles at facilities which are primarily in operation to refuel marine vessels or aircraft.

(d) Nothing in this section shall affect the current authority of any local fire marshal to establish and maintain fire safety provisions for his or her jurisdiction.

(Added by Stats. 1991, Ch. 468, Sec. 2.)

### **H&S 41961 Fees for Certification**

41961. The State Fire Marshal, the Division of Measurement Standards, and the Division of Occupational Safety and Health may charge a reasonable fee for certification of a gasoline vapor control system or a component thereof, not to exceed their respective estimated costs therefor. Payment of the fee may be made a condition of certification. All money collected by the State Fire Marshal pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund established pursuant to Section 13137, and shall be available to the State Fire Marshal upon appropriation by the Legislature to carry out the purposes of this article.

(Amended by Stats. 1992, Ch. 306, Sec. 5. Effective January 1, 1993. Operative July 1, 1993, by Sec. 6 of Ch. 306.)

### **H&S 41962 Vapor Recovery Systems on Cargo Tank Vehicles**

41962. (a) Notwithstanding Section 34002 of the Vehicle Code, the state board shall adopt test procedures to determine the compliance of vapor recovery systems of cargo tanks on tank vehicles used to transport gasoline with vapor emission standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard. The performance standards and test procedures adopted by the state board shall be consistent with the regulations adopted by the Commissioner of the California Highway Patrol and the State Fire Marshal pursuant to Division 14.7 (commencing with Section 34001) of the Vehicle Code.

(b) The state board may test, or contract for testing, the vapor recovery system of any cargo tank of any tank vehicle used to transport gasoline. The state board shall certify the cargo tank vapor recovery system upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a cargo tank vapor recovery system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(c) Upon verification of certification pursuant to subdivision (b), which shall be done annually, the state board shall send a verified copy of the certification to the registered owner of the tank vehicle, which copy shall be retained in the tank vehicle as evidence of certification of its vapor recovery system. For each system certified,

the state board shall issue a nontransferable and nonremovable decal to be placed on the cargo tank where the decal can be readily seen.

(d) With respect to any tank vehicle operated within a district, the state board, upon request of the district, shall send to the district, free of charge, a certified copy of the certification and test results of any cargo tank vapor recovery system on the tank vehicle.

(e) The state board may contract with the Department of the California Highway Patrol to carry out the responsibilities imposed by subdivisions (b), (c), and (d).

(f) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification. The fees may be collected by the Department of the California Highway Patrol and deposited in the Motor Vehicle Account in the State Transportation Fund. The Department of the California Highway Patrol shall transfer to the Air Pollution Control Fund the amount of those fees necessary to reimburse the state board for the costs of administering the certification program.

(g) No person shall operate, or allow the operation of, a tank vehicle transporting gasoline and required to have a vapor recovery system, unless the system thereon has been certified by the state board and is installed and maintained in compliance with the state board's requirements for certification. Tank vehicles used exclusively to service gasoline storage tanks which are not required to have gasoline vapor controls are exempt from the certification requirement.

(h) Performance standards of any district for cargo tank vapor recovery systems on tank vehicles used to transport gasoline shall be identical with those adopted by the state board therefor and no district shall adopt test procedures for, or require certification of, cargo tank vapor recovery systems. No district may impose any fees on, or require any permit of, tank vehicles with vapor recovery systems. However, nothing in this section shall be construed to prohibit a district from inspecting and testing cargo tank vapor recovery systems on tank vehicles for the purposes of enforcing this section or any rule and regulation adopted thereunder that are applicable to such systems and to the loading and unloading of cargo tanks on tank vehicles.

(i) The Legislature hereby declares that the purposes of this section regarding cargo tank vapor recovery systems on tank vehicles

are (1) to remove from the districts the authority to certify, except as specified in subdivision (b), such systems and to charge fees therefor, and (2) to grant such authority to the state board, which shall have the primary responsibility to assure that such systems are operated in compliance with its standards and procedures adopted pursuant to subdivision (a).

(Amended by Stats. 1982, Ch. 1255, Sec. 2. Operative July 1, 1983, or earlier, by Sec. 27.5 of Ch. 1255.)

References at the time of publication (see page iii):

Regulations: 17, CCR, sections 94014, 94015