

**PROPOSED**

State of California  
AIR RESOURCES BOARD

**PROPOSED AMENDMENTS TO THE  
ENHANCED VAPOR RECOVERY REGULATIONS  
FOR GASOLINE DISPENSING FACILITIES**

**Resolution 20-36**

**December 10, 2020**

Agenda Item No.: 20-13-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB 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 any system designed to control gasoline vapor emissions during gasoline marketing operations, that are reasonable and necessary to achieve and maintain applicable ambient air quality standards;

WHEREAS, the Board in 1996 adopted definitions of commonly used terms and acronyms used in vapor recovery certification and test procedures, as set forth in California Code of Regulations (CCR), title 17, section 94010, which incorporates by reference, D-200-Definitions for Vapor Recovery Procedures;

WHEREAS, the Board in 2001 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 CCR, title 17, section 94011, which incorporates by reference, CP-201 – Certification Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities, and the applicable test procedures;

WHEREAS, the Board in 2008 adopted EVR regulations for the certification and testing of vapor recovery systems installed at GDF with aboveground storage tanks (AST), as set forth in CCR, title 17, section 94016, which incorporates by reference, CP-206 – Certification Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks, and the applicable test procedures;

WHEREAS, CARB'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 GDF storage tank, and Phase II vapor recovery systems, which collect vapors produced during vehicle refueling by the gasoline consumer;

WHEREAS, the Board in 2015 adopted Enhanced Conventional Nozzle regulations for the certification and testing of nozzles installed at air district Phase II exempted GDFs, as set forth in CCR, title 17, section 94017, which incorporates by reference, CP-207 – Certification Procedures for Enhanced Conventional (ECO) Nozzles and Low Permeation Hoses at Gasoline Dispensing Facilities, and the applicable test procedures;

WHEREAS, the Board has periodically updated the regulations to reflect improvements in vapor recovery technologies, to achieve additional emission reductions, to improve cost-effectiveness, and to clarify the requirements;

WHEREAS, CARB staff has proposed amendments to the Enhanced Vapor Recovery Regulations for Gasoline Dispensing Facilities (CCR, title 17, sections 94010, 94011, 94016, and 94017), as set forth in Appendix A, and the documents incorporated by reference by these regulations, as set forth in Appendices B through H to the Initial Statement of Reasons (ISOR) released to the public on October 20, 2020;

WHEREAS, CARB staff has found that existing overpressure alarm criteria required by EVR regulations for in-station diagnostic (ISD) systems are not effective at identifying repairable vapor recovery equipment problems, which results in GDF owners incurring alarm response costs with no concomitant air pollutant emission reductions;

WHEREAS, CARB staff has found that ineffective ISD overpressure alarms can lead to operator complacency and accidental clearing of other ISD alarms that are effective at identifying repairable vapor recovery equipment problems, potentially leading to increased emissions;

WHEREAS, CARB staff has proposed amendments that would replace the ISD overpressure alarm criteria in CP-201 with requirements for improved monthly pressure data summaries and data storage to make stored information more useful in identifying potential issues, which would improve cost effectiveness for GDF owners without impacting the emission reduction benefits achieved by vapor recovery systems;

WHEREAS, CARB staff has proposed amendments to CP-201 that would require updated ISD software that includes improved monthly pressure data summaries and data storage, and no overpressure alarm criteria, for all installations at new GDFs and major modifications at existing GDFs;

WHEREAS, CARB staff has proposed amendments to CP-201 that would provide flexibility by allowing owners and operators of existing GDFs to install the updated ISD software on a voluntary basis, based on their site-specific assessments of potential cost savings and business priorities;

WHEREAS, CARB staff proposed amendments to Test Procedure 201.2I, Test Procedure for In-Station Diagnostic Systems (TP-201.2I), to remove the ISD overpressure alarm criteria and required responses;

WHEREAS, CARB staff received a request from ISD equipment manufacturers to allow for the installation of modern, readily available communication ports in ISD consoles, rather than continue to require the antiquated RS-232 port;

WHEREAS, CARB staff has proposed amendments to CP-201 that would remove the requirement that specifies the RS-232 communication port, and instead allow ISD manufacturers to install modern, readily available alternative communication ports with the approval of the CARB Executive Officer, to improve cost-effectiveness and the access and quality of downloaded data from the ISD system for GDF contractors, air district inspectors, and CARB staff;

WHEREAS, CARB staff has found that CARB-certified nozzles all perform much better than the existing nozzle spillage standards in CP-201, CP-206, and CP-207;

WHEREAS, increasing the stringency of the nozzle spillage standards is necessary to preserve the emission reductions accomplished by the superior performance of currently certified nozzles, and to help safeguard public health benefits by preventing manufacturers from requesting CARB to certify less efficient nozzles that would lead to emission increases;

WHEREAS, CARB staff has proposed amendments that would lower the nozzle spillage standard in all three certification procedures (CP-201, CP-206, and CP-207) to 0.05 pounds per thousand gallons of gasoline dispensed;

WHEREAS, compliance with the proposed amendments would not require GDF owners to replace existing in-use nozzles because CARB certification data demonstrate the currently certified nozzles already comply with the more stringent proposed nozzle spillage standard;

WHEREAS, CARB staff has determined that requiring vapor recovery equipment manufacturers to provide a physical sample of CARB certified systems and components would improve enforceability of vapor recovery regulations by enabling CARB to identify when undisclosed changes have been made to component materials or dimensional specifications, which can negatively affect compliance with performance standards and result in emission increases;

WHEREAS, CARB staff has proposed amendments to CP-201, CP-206, and CP-207 that would require vapor recovery equipment manufacturers to provide a physical sample of the system or components once they have successfully demonstrated they meet applicable performance standards or specifications;

WHEREAS, CARB staff has received a request from air districts to improve the Phase I drop tube compliance test procedures (Test Procedures TP-201.1C and TP-201.1D) to accommodate longer remote fill configurations for GDFs equipped with underground storage tanks;

WHEREAS, CARB staff has proposed amendments to Test Procedures TP-201.1C and TP-201.1D to set forth a process for determining the additional time needed to pressurize the product pathway to prevent false indication of system leaks and improve the test procedures for better regulatory certainty;

WHEREAS, CARB staff have identified the need to change the Phase II EVR upgrade date in CP-206 for existing GDFs with ASTs to the date of the July 25, 2019, Board Hearing to rectify the inadvertent use of the incorrect date;

WHEREAS, CARB staff has proposed amendments to CP-206 to correct the Phase II upgrade date for existing ASTs, which would restore the intent of the prior rulemaking, alleviate confusion of air district enforcement staff, and prevent inadvertent early and costly upgrades before the end of useful life of currently installed systems;

WHEREAS, CARB staff has identified and proposed various administrative amendments that are necessary to clarify the certification and test procedures for better regulatory certainty and enforceability;

WHEREAS, CARB'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 CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, CARB staff has determined that the proposed amendment is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) and section 15308 ("Class 8" exemption: Actions Taken by Regulatory Agencies for Protection of the Environment) because the record evidence shows with certainty that the amendments will enhance the environment by better protecting the public from health impacts associated with exposure to ozone (formed by reaction of reactive organic gases (ROG) and nitrogen oxide in the presence of sunlight) and benzene (a toxic air contaminant), the regulatory process involves procedures for protection of the environment, and there is no possibility that the proposed activity may

result in a significant adverse impact on the environment, as described in Chapter VI of the ISOR;

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:

The proposed amendments meet the statutory requirements to adopt procedures, including performance standards for any system designed to control gasoline vapor emissions during gasoline marketing operations, that are reasonable and necessary to achieve and maintain applicable ambient air quality standards, identified in section 41954 of the Health and Safety Code;

The proposed amendments 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;

There exists adequate data to support the adoption of the proposed amendments and to establish that the amendments are necessary;

The proposed amendments are necessary and cost effective to attain and maintain ambient air quality standards and to preserve the ROG and benzene emission reductions accomplished under the existing vapor recovery regulations;

The economic impacts of the proposed amendments have been analyzed as required by California law and conclusions and supporting documentation for the analysis are set forth in the ISOR;

The cost-effectiveness of the proposed amendments has been considered;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, 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 amendments are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin; and

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) and section 15308 because substantial evidence in the record shows with certainty that they will enhance the environment by better protecting the public from health impacts associated with exposure to ozone and benzene, the regulatory process involves procedures for protection of the environment, and there is no possibility that the proposal may result in a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption amendments to sections 94010, 94011, 94016, and 94017, Title 17 California Code of Regulations, as set forth in Appendix A, and the documents incorporated by reference by these regulations, as set forth in Appendices B through H of the Initial Statement of Reasons released to the public on October 20, 2020.

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 CARB's regulations at title 17, CCR, section 60004.

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 Appendix A, and the documents incorporated by reference by these regulations, as set forth in Appendices B through H of the Initial Statement of Reasons released to the public on October 20, 2020. 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.