State of California
AIR RESOURCES BOARD

Resolution 01-52

November 15, 2001

Agenda Item No.: 01-9-3

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, the emissions captured by vapor recovery equipment include volatile organic carbons, an ozone precursor, and benzene, a toxic air contaminant;

WHEREAS, the emissions reductions attributed to the vapor recovery program currently set forth in the State Implementation Plan (SIP) are 410 tons per day of hydrocarbons;

WHEREAS, section 41960.2(c)(1) of the Health and Safety Code requires the Executive Officer of the state Board to 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;

WHEREAS, section 41960.2(c)(1) of the Health and Safety Code also requires the Executive Officer to identify and list the defects for each certified system and to specify the defects in the applicable certification documents for each system;

WHEREAS, section 41960.2(c)(2) of the Health and Safety Code requires the Executive Officer of the state Board on or before January 1, 2001, and at least once every three years thereafter, to review the list at a public workshop to determine whether the list requires an update to reflect changes in equipment technology or performance;

WHEREAS, section 41960.2(c)(3) of the Health and Safety Code authorizes the Executive Officer to 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 notwithstanding the timeframes specified in section 41960.2(c)(2);

WHEREAS, section 41960.2(c)(3) of the Health and Safety Code also requires the Executive Officer to update the list of equipment defects no later than 12 months after determining that an update is required;

WHEREAS, section 94006 of title 17 of the California Code of Regulations, titled Defects Substantially Impairing the Effectiveness of Vapor Recovery Systems Used in Motor Vehicle Fueling Operations, was adopted in 1982 and has not been changed since;

WHEREAS, other defects that substantially impair the effectiveness of vapor recovery systems are currently set forth in the certification documents for each system;

WHEREAS, a public workshop was held on December 13, 2000, to review the list in section 94006 of title 17 of the California Code of Regulations and the Executive Officer determined that the current list is inadequate and an update of the list is necessary to ensure that all substantial defects are set forth in one document;

WHEREAS, staff anticipates a period of unprecedented change in vapor recovery equipment over the next six years, with many of the substantial defects that are currently listed being superseded as components meeting the EVR requirements are certified;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the proposed list has been developed at numerous workshops and committee meetings with air district vapor recovery enforcement staff, vapor recovery equipment manufacturers, vapor recovery maintenance persons, vapor recovery systems/equipment testers, and gasoline facility operator associations; as well as at three public workshops on December 13, 2000, May 22, 2001, and August 16, 2001;

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

WHEREAS, the Board finds that:

1. There is greater variety and substantially more variability in vapor recovery equipment since section 94006 of title 17 of the California Code of Regulations was adopted in 1982;

2. The defects listed currently in subsections (a) through (j) of section 94006 of title 17 of the California Code of Regulations are no longer applicable to all vapor recovery systems and should be updated and supplemented with the defects listed in the certification documents;

3. The defects listed in the document titled "Vapor Recovery Equipment Defects List Title 17 Update," set forth in Attachment A hereto and incorporated by reference herein, substantially impair the effectiveness of the gasoline vapor recovery systems in reducing air contaminants during motor vehicle fueling operations.

4. More effective and consistent enforcement of gasoline vapor recovery requirements is necessary statewide in order to meet the emission reduction targets for vapor recovery equipment in the State Implementation Plan (SIP).

5. Consolidation of all previously listed equipment defects, whether currently set forth in section 94006 of title 17 of the California Code of Regulations or in the individual certification documents, will enhance both compliance by station operators and enforcement by air district inspection personnel of vapor recovery requirements pertaining to equipment used in vehicle fueling operations.

6. Specification of a verification procedure for each listed defect will facilitate compliance and enforcement efforts as well as consistency and detection accuracy.

7. The phase-in of EVR will result in new systems and equipment being certified and the need to keep pace with their certification by identifying associated defects that substantially impair the effectiveness of those systems and equipment.

8. The Executive Officer, when certifying EVR systems and equipment, will identify any substantial defects for each system or component and should be authorized to revise the list of substantial defects to ensure that it remains current.

9. The enhanced compliance and enforcement that will result from the proposed amendments may result in decreased emissions from vapor recovery equipment used in motor vehicle fueling activities and will have a positive impact on the state's air quality.

10. There is no reasonable alternative considered by the Board or otherwise identified by those who testified that would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons or businesses.

11. No adverse environmental impacts are expected to result from the proposed amendments to section 94006, title 17, California Code of Regulations.

12. Amendment of the provisions of title 17, California Code of Regulations, as set forth in Attachment A hereto, and incorporation of the Vapor Recovery Equipment Defects List Title 17 Update document, are necessary and appropriate to satisfy the requirements of section 41960.2 of the Health and Safety Code.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section 94006, title 17, California Code of Regulations, and the incorporated document, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the modified amendments that are approved herein, after making the modified regulatory language available for public comment for a period of at least 15 days, provided that the Executive Officer shall consider such written comments regarding the modified text that may be submitted during this period, shall make modifications as may be considered in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that, as existing vapor recovery equipment is decertified and new equipment is certified, the Executive Officer is directed to update the Vapor Recovery Equipment Defects List incorporated by reference in section 94006, title 17, California Code of Regulations, as appropriate to maintain its currency and facilitate its use and implementation by district vapor recovery enforcement staff, vapor recovery equipment manufacturers, vapor recovery maintenance personnel, vapor recovery systems and equipment testers, and gasoline facility operators.

I hereby certify that the above is a true and correct copy of Resolution 01-52, as adopted by the Air Resources Board.

Marie Kavan

Marie Kavan, Clerk of the Board

**Recv'd By**
*Office of the Secretary*

SEP 27 2002

*Resources Agency of California*

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Identification of Attachments to the Resolution

Attachment A: The Proposed Regulation Order attached as Appendix 1 to the Staff Report: Vapor Recovery Equipment Defects Title 17 Update, Initial Statement of Reasons For Proposed Amendments To Title 17 California Code Of Regulations, Section 94006 - Defects Substantially Impairing The Effectiveness Of Vapor Recovery Systems Used In Motor Fueling Operations, release date September 28, 2001.

**State of California**
**Environmental Protection Agency**
**AIR RESOURCES BOARD**

# Notice of Decision and Response to Significant Environmental Issues

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| Item: | Vapor Recovery Equipment Defects List |
| Approved By: | Resolution 01-52 |
| Adopted by: | Executive Order G-02-064 |
| Agenda Item: | 01-9-3 |
| Public Hearing Date: | November 15, 2001 |
| Issuing Authority: | Air Resources Board |
| Comment: | No comments were received identifying any significant environmental issues pertaining to this item. The Staff Report identified no adverse environmental effects. |
| Response: | N/A |
| Certified: | Artavia M. Edwards, Manager<br>Board Administration & Regulatory Coordination Unit |
| Date: | 24 Sep 02 |

**Recv'd By**
*Office of the Secretary*

SEP 27 2002

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