

§ 7624. Cost of vapor recovery equipment**(a) Costs to be borne by owner of retail outlet**

The regulations under this chapter applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Except as provided in subsection (b) of this section, such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after August 7, 1977, may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment. Such regulations shall also provide that the cost of procurement and installation of vapor recovery equipment may be recovered by the owner of such outlet by means of price increases in the cost of any product sold by such owner, notwithstanding any provision of law.

(b) Payment by lessee

The regulations of the Administrator referred to in subsection (a) of this section shall permit a lease of a retail outlet to provide for payment by the lessee of the cost of procurement and installation of vapor recovery equipment over a reasonable period (as determined in accordance with such regulations), if the owner of such outlet does not sell, trade in, or otherwise dispense any product at wholesale or retail at such outlet.

(July 14, 1955, ch. 360, title III, §323, formerly §324, as added Pub. L. 95-95, title III, §314(a), Aug. 7, 1977, 91 Stat. 788; amended Pub. L. 95-190, §14(a)(82), Nov. 16, 1977, 91 Stat. 1404; renumbered §323 and amended Pub. L. 96-300, §1(b), (c), July 2, 1980, 94 Stat. 831.)

PRIOR PROVISIONS

A prior section 323 of act July 14, 1955, was classified to section 7623 of this title prior to repeal by Pub. L. 96-300, §1(c), July 2, 1980, 94 Stat. 831.

AMENDMENTS

1980—Pub. L. 96-300, §1(b), which directed that last sentence of this section be struck out was probably intended to strike sentence purportedly added by Pub. L. 95-190. See 1977 Amendment note below and section 7623(i) of this title.

1977—Pub. L. 95-190 which purported to amend subsec. (j) of this section by inserting "The Commission may appoint and fix the pay of such staff as it deems necessary." after "(j)" was not executed to this section because it did not contain a subsec. (j). See 1980 Amendment note above.

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7625. Vapor recovery for small business marketers of petroleum products**(a) Marketers of gasoline**

The regulations under this chapter applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall not apply to any outlet owned by an independent small busi-

ness marketer of gasoline having monthly sales of less than 50,000 gallons. In the case of any other outlet owned by an independent small business marketer, such regulations shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment at such outlets under which such marketers shall have—

- (1) 33 percent of such outlets in compliance at the end of the first year during which such regulations apply to such marketers,
- (2) 66 percent at the end of such second year, and
- (3) 100 percent at the end of the third year.

(b) State requirements

Nothing in subsection (a) of this section shall be construed to prohibit any State from adopting or enforcing, with respect to independent small business marketers of gasoline having monthly sales of less than 50,000 gallons, any vapor recovery requirements for mobile source fuels at retail outlets. Any vapor recovery requirement which is adopted by a State and submitted to the Administrator as part of its implementation plan may be approved and enforced by the Administrator as part of the applicable implementation plan for that State.

(c) Refiners

For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 7624¹ of this title or under regulations of the Administrator, unless such person—

- (1)(A) is a refiner, or²
- (B) controls, is controlled by, or is under common control with, a refiner,
- (C) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person), or
- (2) receives less than 50 percent of his annual income from refining or marketing of gasoline.

For the purpose of this section, the term "refiner" shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, "control" of a corporation means ownership of more than 50 percent of its stock.

(July 14, 1955, ch. 360, title III, §324, formerly §325, as added Pub. L. 95-95, title III, §314(b), Aug. 7, 1977, 91 Stat. 789; renumbered §324, Pub. L. 96-300, §1(c), July 2, 1980, 94 Stat. 831.)

¹ See References in Text note below.

² So in original. The word "or" probably should appear at the end of subpar. (B).