



South Coast Air Quality Management District

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Rule 461 Advisory No. 01-09

Gasoline Dispensing Facility Operators,

State of California law requires that all retail and non-retail gasoline dispensing facilities (GDFs) with underground storage tanks¹ be equipped with a certified Phase II Enhanced Vapor Recovery (P-II EVR) system no later than April 1, 2009. The Enhanced Vapor Recovery (EVR) program was adopted by the California Air Resources Board (CARB) in March 2000 to improve the collection of gasoline vapor that would otherwise be released to the atmosphere as a result of gasoline dispensing operations. This program is being implemented in modules. The latest module is directed to phase II operations at GDFs which include dispensing fuel into vehicle and control of evaporative loss from underground storage tanks. In addition, a GDF is required to install an In-Station Diagnostic System (ISD) system at its station to monitor performance of the P-II EVR system by September 1, 2009 if it has an annual gasoline throughput greater than 1.8 million gallons of gasoline. These state law requirements are mandatory and no variance from these requirements is available.

Since 2006, the South Coast Air Quality Management District (AQMD) has been urging operators like you to plan and start early the process of upgrading your equipment to certified P-II EVR systems and ISD systems. Many operators have heeded this advice and are now in full compliance with these latest requirements. Others have been requesting a delay in the effective date for a variety of reasons. CARB and AQMD, as well as other air districts in California, have repeatedly rejected these requests. Granting an extension to the April 1, 2009 deadline for P-II EVR at this time will not be fair to the operators who have acted diligently and will hinder progress towards cleaner air for all citizens in California.

On the other hand, many operators have experienced delays in the upgrade processes despite their utmost diligence. Others have reported difficulties in securing adequate funding for the upgrade due to the current state of the economy. AQMD staff has worked with the California Air Resources Board (CARB) and other air pollution control districts to formulate a legally viable approach to provide some additional time for compliance – no later than December 31, 2009. This approach will acknowledge that operation without certified P-II EVR systems and, if applicable, an ISD system is a violation of state law, secure an order from the AQMD Hearing Board that will prohibit operations after December 31, 2009 unless your GDF has been upgraded to comply with P-II EVR and ISD requirements and successfully tested, and include monthly payment of fines as a result of the violations. Payment of monthly fines may be waived if the GDF temporarily shuts down fuel dispensing operations until it complies fully with the P-II EVR requirements and notifies the AQMD of such intentions by submitting the enclosed Statement of Temporary Shutdown. Regardless, an additional penalty must be paid if your GDF receives a Notice of Violation for violating Rule 461(i).

This approach requires you to have someone who has authority to legally bind your GDF to carefully read all the enclosed documents, fill-in any required information and then sign two of them, the Settlement Agreement and the Declaration of Gasoline Dispensing Facility. You must properly fill-in and sign both documents in order to operate beyond April 1, 2009 without certified P-II EVR equipment. Otherwise, your operation will result in enforcement actions that may include the equipment being tagged out of operation and penalties of up to \$25,000 per day.

Due to the anticipated large number of GDF's that may be requesting stipulated orders from the Hearing Board, AQMD's intent is to have these matters heard by the Hearing Board on its consent calendar in the order in which your fully completed and signed documents come in. You may find out when your specific matter will be considered by checking the AQMD webpage at www.aqmd.gov/comply/Rule461/Useful_doc/Advisory01-09.htm or by calling the number listed below. However, there is no need to appear at the hearing in which your specific matter will be considered.

Please be aware that the Hearing Board has nothing to do with the Settlement Agreement and will not be able to change any of its terms. In addition, the Hearing Board will not issue an Order that is different from the Proposed Order that is attached to the enclosed Petition for Stipulated Group Order for Abatement, with which you are being served.

The attached package provides explanations to the approach and the necessary documents to obtain the required Settlement Agreement and stipulated Order for Abatement. Again, please have all the enclosed documents carefully reviewed and fully and accurately completed before signing. If you agree with this approach, please complete and submit the documents as instructed. The Stipulated Order for Abatement and Settlement Agreement are set up to provide one uniform approach. No deviation from this standardized approach will be accepted.

Please note that this approach provides no relief from the upcoming requirement to install an In-Station Diagnostic (ISD) system, which a GDF is required to upgrade to by September 1, 2010 if its annual throughput is greater than 600,000 gallons but less than 1.8 million gallons. It is prudent for you to plan ahead and consider including the ISD upgrade at the same time as you are completing the Phase II EVR upgrade. You will be saving a lot of time and effort if the two projects are combined into one.

For further information, please call (909) 396 - 3546 or e-mail your questions to evrstipulatedoa@aqmd.gov.

Attachments:

1. [Instructions and Explanations for completing the documents](#) (30 KB pdf file)
2. [Petition for Stipulated Group Order for Abatement](#) (2 MB pdf file)
3. [Proposed Order for Abatement](#) (23 KB pdf file)
4. [Declaration of Gas Dispensing Facility](#) (48 KB pdf file)
5. [Settlement Agreement](#) (22 KB pdf file)
6. [Statement of Full Compliance](#) (5 KB pdf file)
7. [Statement of Temporary Shut Down](#) (6 KB pdf file)