



Working Group Meeting #8

Meeting Information

**November 9, 2021
10:30 a.m.**

Zoom Webinar Link:
<https://scaqmd.zoom.us/j/95487570458>

Dial In:
+1 (669) 900-6833

Webinar ID:
954 8757 0458

Proposed Amended Rule 461 – Gasoline Transfer and Dispensing

Proposed Rule 461.1 – Gasoline Transfer and Dispensing for Mobile Fueling Operations

Proposed Amended Rule 219 – Equipment not Requiring a Written Permit Pursuant to Regulation II

Proposed Amended Rule 222 – Filing Requirements for Specific Emission Sources Not Requiring a Written Permit Pursuant to Regulation II



Presentation Agenda Overview



Summary of Recent Rulemaking Activity



Response to Booster Letter



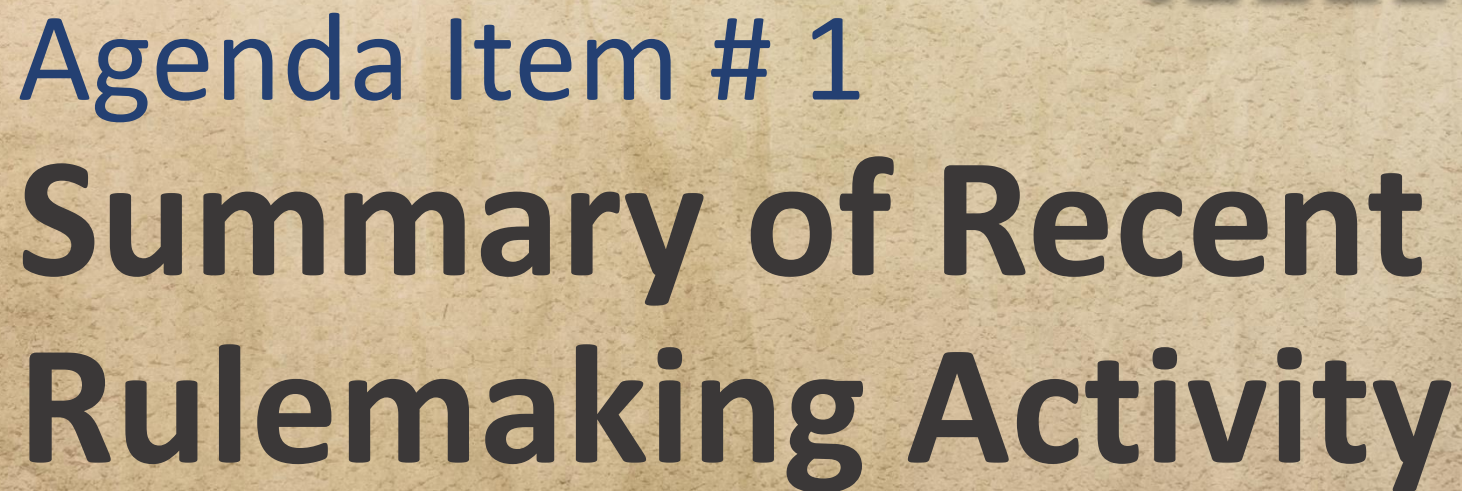
Comments from Public Workshop



Additional Comments or Questions on Preliminary Draft Rule Language



Next Steps





Recent Rulemaking Activity

Working Group #7 – September 22, 2021

- Rule concepts for Proposed Amended Rules 219 (PAR 219) and PAR 222
- Released PR 461.1 proposed rule language for purpose, applicability, and definitions

Public Workshop – October 27, 2021

- Preliminary Draft Rule Languages and Preliminary Draft Staff Report for PARs 219, 222, 461 and PR 461.1
- Released preliminary draft documents on October 21, 2021



Agenda Item # 2

Response to Booster Letter



Letter from Booster Fuels, Inc

- South Coast AQMD received letter from Booster dated September 1, 2021
 - Discussed various California Health and Safety Codes regarding procedures, performance standards, and cost effectiveness
- Response letter is available on the South Coast AQMD website for PR 461.1
- Summary of key responses on following slides



General Counsel's Office
909.396.2302 bcourt@aqmd.gov

October 19, 2021

Mr. Joseph Okpaku
Chief Policy Officer
Booster Fuels, Inc.
1840 Gateway Drive, Suite 200
San Mateo, CA 94404

Re: Proposed Rule 461.1—Response to Comments in Your Letter Dated September 1, 2021

Dear Mr. Okpaku:

Thank you for your input into the rulemaking process for Proposed Rule 461.1. We appreciate the time and effort you have put into this project. We have carefully reviewed your comments, and we conclude that we will modify the proposal to be consistent with one of your comments. However, we disagree with the rest of the comments.

As you point out, the Health and Safety Code Section 41954(a) provides that the state board (CARB) shall adopt procedures and performance standards for systems for the control of gasoline vapor emissions during gasoline marketing, including storage and transfer operations. Footnote: All section references are to the Health & Safety Code. Section 41954(g)(1) states that except as authorized by other law or this subdivision (g), no district may adopt or enforce stricter procedures or performance standards than those adopted by the state board. Section 41954(g)(3) goes on to provide that "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." We do not believe that PR 461.1 establishes a stricter performance standard for two reasons: (1) the standard (Phase II vapor recovery) was set by CARB long ago, and (2) even if the South Coast AQMD established the standard, it did so in 1995 in Rule 461, and is not setting a stricter standard now in PR 461.1. Nevertheless, out of an abundance of caution, we have agreed to modify our proposed rule such that use of Phase II vapor recovery will not be required until at least two such systems have been certified by the state board. This modification to our proposal should also help alleviate concerns about the cost of Phase II systems since there will be market competition among the two or more certified systems.



Comment #1

Performance Standard

COMMENT #1:

- California Health and Safety Code § 41954 requires at least two Phase II vapor recovery systems certified by CARB before an air district can restrict the use of CARB certified mobile fueler

RESPONSE #1:

- PR 461.1 does not establish a stricter performance standard:
 - Phase II vapor recovery standard was set by CARB long ago
 - Rule 461 required Phase II vapor recovery since 1995
- Out of abundance of caution, staff modified proposed rule language to not require until two mobile fuelers equipped with Phase II vapor recovery systems have been certified by CARB



Comment #2

BARCT Requirements

COMMENT #2:

- There are additional state statutory requirements that have to be addressed prior to developing a rule that would require one control measure over another
 - California Health and Safety Code § 40406 states “best available retrofit control technology” means an emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source
 - California Health and Safety Code § 40920.6 requires cost effectiveness and incremental cost effectiveness



Comment #2

BARCT Requirements Continued

RESPONSE #2:

- South Coast AQMD is not establishing a BARCT limit by adopting the PR 461.1
- PR 461.1 is being adopted pursuant to California Health and Safety Code § 41954 parts for Nonvehicular Air Pollution Control and Gasoline Vapor Control, separate from provisions relating to BARCT
 - BARCT requirements do not apply to gasoline vapor recovery rules
- California Health and Safety Code § 40920.6 and 40703 provisions regarding cost effectiveness* do not apply as PR 461.1 is not setting a stricter performance standard:
 - California Health and Safety Code § 41954 (g) restricts South Coast AQMD's discretion in setting performance standards and limits it to systems certified by CARB
 - South Coast AQMD does not have the legal ability to conduct a typical BARCT analysis which would require compliance with California Health and Safety Code § 40920.6

* A Socioeconomic Impact Assessment, pursuant to California Health and Safety Code § 40440.8, will be included as part of rulemaking for PR 461.1



Comment #3

Alternative Methods for Emission Reduction

COMMENT #3:

- California Health and Safety Code § 40001 (d) requires process for alternative methods with equivalent emission reductions

RESPONSE #3:

- Does not appear that a mobile fueler is a facility for the purposes of California Health and Safety Code § 40001
- Booster certified system does not provide equivalent performance to Phase II vapor recovery



Comment #4

Other Requirements

COMMENT #4:

- California Health and Safety Code § 40922 requires each plan to take into consideration cost effectiveness, technological feasibility, total emission reduction potential etc., when adopting a specific control measure
- One of the primary factors required to be evaluated by the District when adopting a regulation, is the cost effectiveness of proposed control measures (California Health and Safety Code § 40703)

RESPONSE #4:

- California Health and Safety Code § 40922 and § 40703 do not apply to the adoption of rules and regulations, but only to adoption of the air quality management plan (AQMP)



Agenda Item # 3

Comments From Public Workshop



Comment #1

Cargo Tank

COMMENT #1:

- Align definition of cargo tank with California Code of Regulations 13 CCR 3403 [California Vehicle Code § 34003], which is defined as greater than 120 gallons, and consider defining tank vehicle from this code

RESPONSE #1:

- In California Vehicle Code § 34003, there is a disclaimer that the definition of a cargo tank shall apply only to this specific division of the code
- PR 461.1 is not intended to be applicable to cargo tanks as defined in California Vehicle Code § 34003



Comment #2

Applicability of Certification Procedure

COMMENT #2:

- CP-204 does not apply to tanks less than 120 gallons

RESPONSE #2:

- CARB Certification Procedure for Vapor Recovery Systems of Cargo Tanks (CP-204)
 - Does not restrict the use of this certification procedure for tanks less than 120 gallons
 - Two tables list a cargo tank range of either “999 or less” or “between 0 to 999 gallons”
- CP-204 is an appropriate certification procedure for mobile fueler cargo tanks



Comment #3

Availability of CARB Certified Systems

COMMENT #3:

- The two Phase II Vapor Recovery CARB Executive Orders for mobile fuelers should not only be certified, but also available

RESPONSE #3:

- PR 461.1 is consistent with California Health and Safety Code § 41954 (g)(3) that requires “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”



Comment #4

Timeline to Transition to Phase II

COMMENT #4:

- 60 days to change over to a CARB certified Phase II vapor recovery system is stringent

RESPONSE #4:

- PR 461.1 does not require a transition from a Non-Vapor Recovery Component for Dispensing to a CARB Certified Phase II Vapor Recovery System within 60 days
- Multi-step process to transition to CARB certified Phase II vapor recovery system
 - 60 days of notification from Executive Officer that Phase II Vapor Recovery Systems were certified by CARB to either cease operating or submit a permit application for a mobile fueler with a CARB certified Phase I and Phase II Vapor Recovery System
 - Permit application is evaluated
 - 180 days after permit to construct is issued for Mobile Fueler equipped with Phase I and Phase II Vapor Recovery Systems Inactivate permit for replaced unit and cease operating this mobile fueler



Comment #5

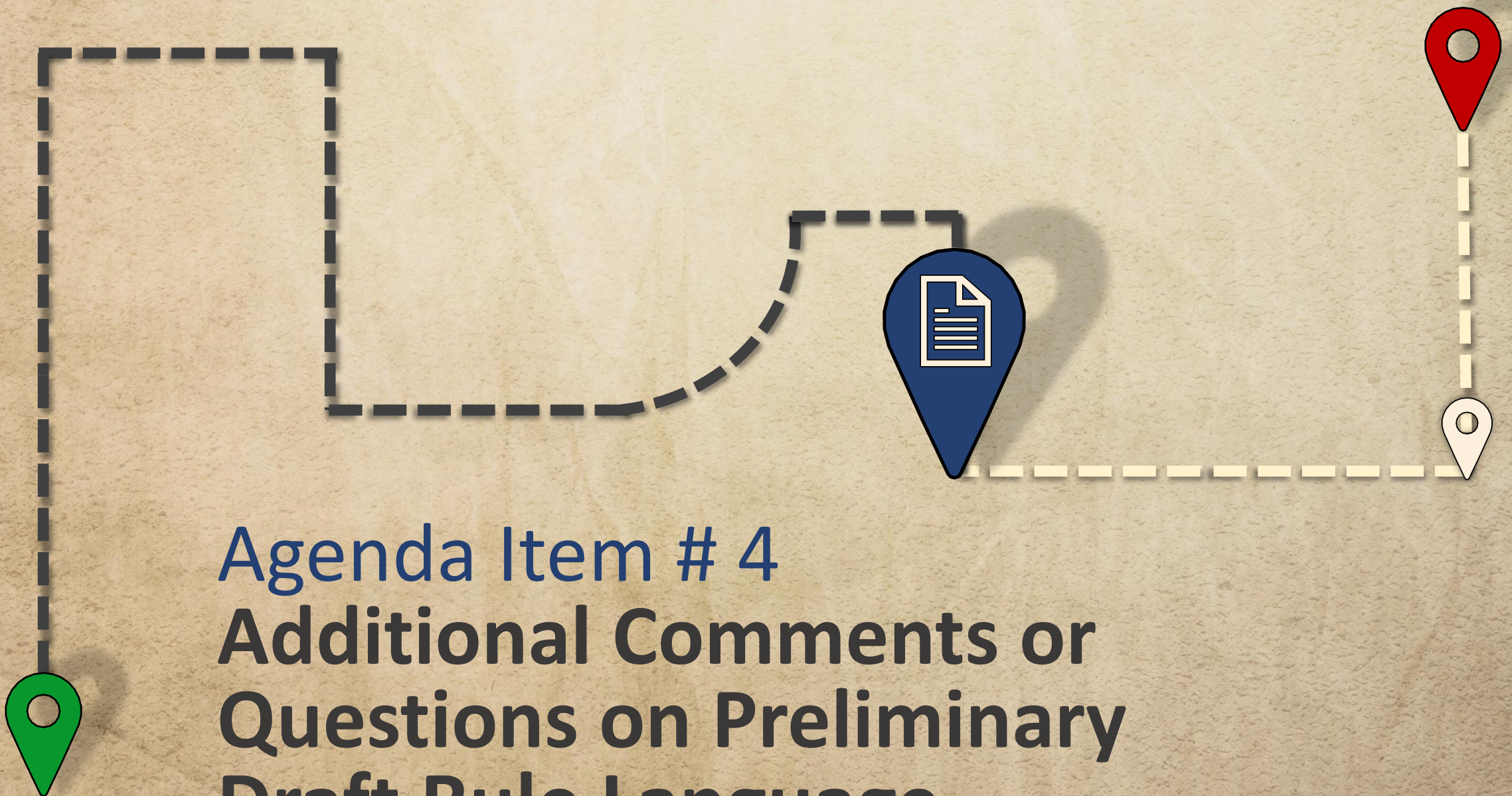
Certification Program

COMMENT #5:

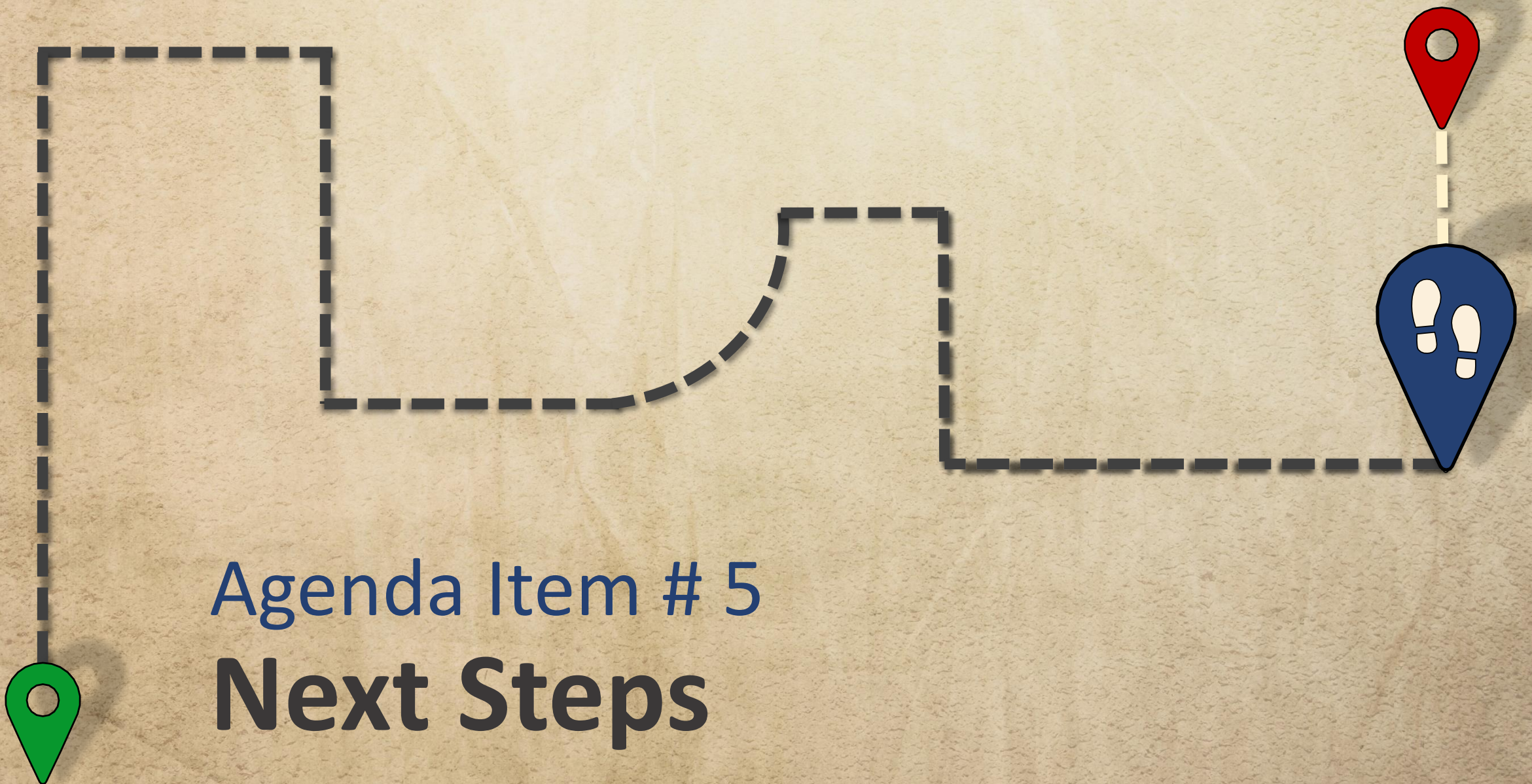
- PR 461.1 subparagraph (k)(9)(H) has certification program requirements and they have never seen a certification program to install a tank

RESPONSE #5:

- Subparagraph (k)(9)(H) requires the retention of records of the successful completion of a manufacturer training program and any relevant state certification program
 - Paragraph (i)(3) requires obtaining manufacturer certification (demonstrating completion of training program) and successfully completing any relevant state certification program
- Manufacturer training programs are developed by the manufacturer of the mobile fueler or control equipment
 - Installer or contractor would obtain the certification of completion by contacting the manufacturer
- Relevant state certifications are obtained through International Code Council (ICC) and include:
 - Vapor Recovery System Repair
 - Vapor Recovery System Installation and Repair
 - Tester



Agenda Item # 4
Additional Comments or
Questions on Preliminary
Draft Rule Language



Agenda Item # 5

Next Steps



Next Steps






PARs 461, 222, 219, and PR 461.1 Staff Contacts


Please contact staff with any questions or comments

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Additional information is located on the [South Coast AQMD Proposed Rules and Proposed Rule Amendments Website](#)

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