



Special Advisory

April 1, 2009 Deadline

Number 385

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POLICY FOR SERVICE STATIONS THAT DO NOT MEET THE APRIL 1, 2009 PHASE II EVR DEADLINE

Enhanced Vapor Recovery (EVR) regulations adopted by the Board in March 2000 require approximately 11,000 service stations (Gasoline Dispensing Facilities or GDFs) to upgrade equipment to reduce gasoline vapor emissions by April 1, 2009. The EVR Phase II systems will reduce gasoline vapor emissions that contribute to ozone formation to protect public health and meet California clean air attainment requirements. Some of these emissions are air toxics that can cause cancer. **This deadline will remain in place**; however, it is expected that some GDFs will miss the deadline for reasons beyond their control. This advisory is intended to address GDF non-compliance in those circumstances. It outlines a process to allow those stations to remain in operation past the deadline while working towards compliance. In cases where a lack of diligence on the part of the GDF exists, an air district should take traditional enforcement and legal action.

In cases where, despite a good faith effort, a GDF does not comply with the April 1, 2009 deadline, the California Air Resources Board (CARB) and the California Air Pollution Control Officers Association (CAPCOA) are recommending that local air districts utilize either of the following options:

1. Stipulated Order of Abatement; or
2. Enforcement or Compliance Agreements

In order for a GDF to be eligible to operate temporarily under either of these scenarios, individual circumstances must be carefully evaluated. The following criteria, as well as other criteria, may be used to determine a good faith effort by a GDF to comply:

- A complete air permit application was submitted in a timely manner so as to enable the issuance of a district permit.
- Complete applications for all other required permits (Planning, Building, Fire, etc.) were submitted in a timely manner.
- All necessary equipment was ordered in time to allow for delivery and installation prior to the April 1, 2009 deadline.
- Construction and testing contractors were retained early enough to allow for Phase II EVR installation and testing prior to the April 1, 2009 deadline.

The local air district will include a plan for compliance in any Stipulated Order of Abatement, Enforcement Agreement or Compliance Agreement. Examples of items that could be considered as part of the compliance plan are listed below:

- Compliance Plan with a schedule of equipment installation and testing along with deadlines for completion.
- Hanging hardware, with associated dispenser upgrades, should be installed immediately to the extent possible if the remaining equipment installation is delayed.
- Penalties, if appropriate, may be assessed to minimize the economic advantage of noncompliance. These penalties, if appropriate, may escalate over time if the deadlines specified in the order or agreements are violated.
- An air district may have the GDF provide additional details and/or commitments pertinent to the district's requirements.

Air districts have assured CARB of their commitment to work in good faith in considering each request to temporarily continue to operate.

Visit <http://www.evrhome.org/> for additional information on available EVR equipment, certified contractors, local district contact information, and other compliance assistance. In addition, contact information for obtaining lease, loan or other financial assistance is available at <http://www.evrhome.org/finance.htm>.

Some areas of the state have additional time to comply as described below:

1. **EVR is not required:** GDFs located in those counties that are in air districts currently in attainment for the state ozone standard. Impacted counties include Lake, Mendocino, Del Norte, Humbolt, and Trinity counties.
2. **EVR deadline of April 2011:** GDFs located in air basins that are not designated nonattainment for ozone, have an annual throughput of 240,000 gallons of gasoline or less, and are in counties with a population of less than 100,000. Impacted counties include Modoc, Lassen, Plumas, Sierra and Alpine counties.
3. **EVR deadline of July 2011:** GDFs located in air districts that were designated nonattainment for ozone effective 2007. Impacted counties include Siskiyou, Northern Sonoma, and San Luis Obispo counties.

If you have any questions regarding this advisory, please contact Mr. Brad Cole at (916) 322-3951 and/or email bcole@arb.ca.gov.

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