

**Executive Order VR-202-B
Healy Phase II EVR System
Including In-Station (ISD) System**

**Exhibit 10
Statement of Fact**

Veeder-Root In-Station Diagnostic Software Versions 1.00 and 1.01

On August 31, 2005, the California Air Resources Board (ARB) certified the Veeder-Root in-station-diagnostic (ISD) system with software version 1.00 as a vapor recovery phase II system component under Executive Order VR-202-A. On May 24, 2006, Veeder-Root informed ARB staff that a menu in the ISD software version 1.00 contains a sequence of commands that would result in clearing the ISD software system's flash memory. All ISD Daily and Monthly report records will be deleted when the flash memory is cleared. This software sequence of commands was not detected during certification of the Veeder-Root ISD system. As a result, ARB certified version 1.00 with the issuance of Executive Order VR-202-A on August 31, 2005.

ARB staff subsequently verified that Veeder-Root ISD software version 1.00 does indeed contain the sequence of commands that when activated will result in the deletion of daily and monthly data. The ability to erase daily and monthly data does not meet the requirements of CP-201 (Certification Procedure for Vapor Recovery Systems at Gasoline Facilities, last amended May 25, 2006), sections 9.1.8 (maintain electronic archive of monthly report for a period of 12 months and archive of daily report for the last rolling 365 days), 9.3 (records), 9.4 (tampering protection), 9.5 (readiness/function code), and 9.6 (stored vapor recovery system conditions).

After a May 26, 2006 meeting, Veeder-Root and ARB staff agreed to install the new version of the ISD software, version 1.01, at a test site to conduct testing to ensure that the sequence of commands that allowed tampering had been removed in order to prevent loss of data. Also discussed was a timeline to upgrade all existing Veeder-Root ISD sites to software version 1.01.

On June 1, 2006 Veeder-Root installed ISD software version 1.01 at a Sacramento test station. This version eliminates the possibility of a technician deleting historical data. Challenge testing began on June 1, 2006 and went through June 21, 2006. On June 21, 2006, ARB staff verified that the sequence of commands was eliminated from the software and data could not be deleted via any combination of menu options. Staff also reviewed daily and monthly reports to ensure that data were not lost during the installation of version 1.01 and to verify that there were no inconsistencies in the data.

Since Veeder-Root software version 1.00 does not comply with the requirements of CP-201, ARB, therefore, has determined to revoke its previous certification of the component under Executive Order VR-202-A as required by Health and Safety Code Section 41954(c)(2) which states "...After a system has been certified, if circumstances beyond the control of the state board cause the system to no longer meet the required

specifications or standards, the state board shall revoke or modify the certification.” ARB has also determined that Veeder-Root software version 1.01 meets the requirements of CP-201 and, therefore, has modified the phase II system certification in Executive Order VR-202-B to require installation of version 1.01 as a component of the phase II vapor recovery system.

The component revocation for Veeder-Root software version 1.00 and certification modification to require Veeder-Root software version 1.01 will ensure that all existing ISD sites will be upgraded to VR-202-B requirements under the provisions of Health and Safety Code Section 41956.1, which provides that whenever ARB revokes a certification, any systems or any system components certified under procedures in effect prior to the revocation of the certification and installed prior to the effective date of the revocation may continue to be used in gasoline marketing operations for a period of four years after the effective date of the revocation of the certification; however, all necessary repair or replacement parts or components shall be certified.