

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

**Exhibit 12
Statement of Fact**

**INCON In-Station Diagnostic Software Versions 1.0.0 and 1.1.0 for
Six Pack (Multi-Hose) Dispensers**

On December 26, 2007, the California Air Resources Board (ARB) certified the Franklin Fueling Systems (FFS) INCON In-Station Diagnostic (ISD) System with software version 1.0.0 as part of the Healy Phase II Vapor Recovery System under Executive Order VR-202-E. Executive Order VR-202 was revised on August 28, 2008 (VR-202-H) to include INCON ISD software version 1.1.0 which allowed the FFS Data Transfer Unit (DTU) as an alternative to dedicated wires to the ISD vapor flow meter and ISD vapor pressure sensor.

In late 2008, a concern was raised that the INCON ISD system as certified under Executive Orders VR-202-E through H did not correctly calculate the V/L values for gasoline dispensing facilities (GDF) equipped with six pack (multi-hose) dispensers. Upon further investigation, it was determined that software versions 1.0.0 and 1.1.0 monitor each side of the multi-hose dispenser as a single fueling point, taking the average of the three nozzles on each side of the multi-hose dispenser to be the single assessment of the Vapor-Liquid (V/L) ratio value. As INCON ISD system software versions 1.0.0 and 1.1.0 were not tested and were not demonstrated to comply with the ISD monitoring requirements of CP-201 with multi-hose dispensers, ARB staff limited the certification for INCON ISD system software versions 1.0.0 and 1.1.0 to uni-hose dispensers for which they have been tested and have demonstrated certification compliance. With the issuance of Executive Order VR-202-J on May 20, 2009, FFS INCON ISD versions 1.0.0 and 1.1.0 were certified only with uni-hose dispensers and were not certified for use or installation on multi-hose dispensers.

Revisions to the INCON ISD system software version 1.1.0 were necessary for the system to properly recognize individual hose points on multi-hose dispensers. FFS modified their software and submitted an application to ARB to start a certification evaluation on their modified software version 1.2.0. Software version 1.2.0 would apply to uni-hose and multi-hose dispensers.

ARB staff conducted challenge testing on software version 1.2.0 between July 2, 2009, and August 31, 2009. Such testing confirmed that software version 1.2.0 does comply with requirements of CP-201 for uni-hose and multi-hose dispensers.

Since INCON software version 1.0.0 and 1.1.0 does not comply with the requirements of CP-201 for multi-hose dispensers, ARB, therefore, has determined to revoke its previous certification of the component for use on multi-hose dispensers under

Executive Orders VR-202-E through VR-202-I 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 INCON software version 1.2.0 meets the requirements of CP-201 and, therefore, has modified the phase II system certification in Executive Order VR-202-L to require installation of version 1.2.0 as a component of the FFS INCON ISD system for the Healy Phase II Vapor Recovery System.

The component revocation for INCON software versions 1.0.0 and 1.1.0 for use on multi-hose dispensers and certification modification to require INCON software version 1.2.0 will ensure that all existing ISD sites will be upgraded to VR-202-L 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.