



California Air Resources Board  
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Sacramento, CA 95814  
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June 27, 2006

Mr. Jay McKeeman  
Executive Vice President/Government Relations Director  
California Independent Oil Marketers Association  
3831 North Freeway Boulevard, Suite 130  
Sacramento, California 95834-1933

Dear Mr. McKeeman:

#### **RECOMMENDED ISD ENFORCEMENT POLICY DURING 18-MONTH EVALUATION**

The California Air Resources Board (ARB) will implement an 18-month program to evaluate the in-use performance of In-Station Diagnostics (ISD) systems at selected gasoline dispensing facilities (GDF) equipped with vapor recovery. This evaluation is being supported by the California Air Pollution Control Officers Association (CAPCOA) and its air district membership. This evaluation period will commence on July 1, 2006, and may be extended by written agreement between ARB and CAPCOA. Although CAPCOA and ARB have no authority to bind individual air districts to specific enforcement action or enforcement discretion, CAPCOA and ARB are providing recommendations specific to construction and operating permit (permit) conditions and scope of appropriate enforcement actions. Nothing herein shall be deemed or construed as a recommendation that any air district refrain from enforcing against any violations. During this evaluation period, CAPCOA and ARB recommend that local air districts not take enforcement action based solely on data recorded by and retrieved from the ISD system except as specified below.

#### **Background:**

ISD systems are designed to provide continuous real time monitoring of critical gasoline vapor recovery system parameters and components and to alert the owner/operator when a failure mode as defined in ARB regulations (title 17, California Code of Regulations, section 94011) is detected so that corrective action can be taken. ISD systems record two types of gasoline vapor recovery system failure alarms. The first failure alarm will notify the GDF owner/operator of a potential vapor recovery system problem that requires maintenance. If the required corrective action is not taken within the specified time, the ISD system will trigger a second failure alarm and will terminate all fuel dispensing. If an owner/operator ignores the alarm and resets the system to resume fuel dispensing without the required repairs, the ISD system will record and store these events for a 12-month period.

During this ISD evaluation period, ARB and CAPCOA will gather in-use data from the ISD systems, including accuracy, precision and data reliability. The information collected will be used to develop long-term recommendations concerning the use of data recorded and retrieved from ISD systems. It may also be used to develop a recommendation to revise the applicable certification procedure to change the levels at which the ISD system alarms activate. ARB and CAPCOA will meet periodically with representatives of the gasoline dispensing industry and interested stakeholders to share data and discuss ISD system performance.

Construction and Operating Permit Conditions:

When air districts issue permits for gasoline vapor recovery systems equipped with ISD they will specify conditions under which the GDF owner/operator can reset the system to allow for fuel dispensing.

If the GDF is equipped with ISD and is located in a county having a projected population for 2005 of less than 132,000 people (see attached Table 1), it is recommended that such permits incorporate the following requirements:

- (1) Within two (2) hours of detecting that the first ISD failure alarm has activated, the facility attendant shall notify (e.g., direct contact, voice mail, e-mail, fax) the responsible company official or their designee and request service as soon as is reasonably possible to correct the problem. All information relating to the alarm event and reporting shall be promptly recorded on an air district-approved form, maintained at the GDF, and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request. Only persons authorized by the applicable ARB Certification Executive Orders shall be allowed to make vapor recovery or ISD system repairs.
- (2) If a second ISD failure alarm sounds indicating that the same problem still exists and gasoline dispensing is terminated, the ISD system may be reset to allow vehicle fueling to resume only if:
  - (a) All required repairs are made as soon as is reasonably possible but not later than seven (7) calendar days of the first ISD system alarm notification and all information associated with the repairs is recorded on an air district-approved form that shall be maintained at the GDF and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request. The Executive Officer/Air Pollution Control Officer or their designee may also for good cause (e.g., the unavailability of a certified repair technician or required parts) on a case-by-case basis and at their sole discretion, allow the ISD system to be reset to allow gasoline dispensing to continue for a specified time beyond this seven (7)

day period if the required notification (see 1 above) was made within two (2) hours of detection of the first ISD failure alarm. In such case, the granting of the additional extension of time shall be in writing and shall include the reason the additional time was granted and the maximum time period gasoline dispensing may continue while necessary repairs are made. This written extension shall be kept with the ISD system records at the GDF and shall be made available to the Executive Officer/Air Pollution Control Officer or their designee upon request, or

- (b) The dispenser(s) associated with the problem that triggered the failure alarm is isolated, removed from service and not operated until the required repairs are completed and, when completed, all information associated with the repairs is recorded on an air district-approved form that shall be maintained at the GDF and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request.

Notwithstanding the above, the Executive Officer/Air Pollution Control Officer of an air district in which a county having a projected population for 2005 of less than 132,000 people (see attached Table 1) is located may elect at their sole discretion, to condition permits for GDFs in such county as if the county had a projected population for 2005 of greater than 132,000 people (i.e., subject to II. below).

- II. If the GDF is equipped with ISD and is located in a county having a projected population for 2005 of greater than 132,000 people (see Table 1), it is recommended that such permits incorporate the following requirements:

- (1) Within two (2) hours of detecting that the first ISD failure alarm has activated, the facility attendant shall notify (e.g., direct contact, voice mail, e-mail, fax) the responsible company official or their designee and request service as soon as is reasonably possible to correct the problem. All information relating to the alarm event and reporting shall be promptly recorded on an air district-approved form, maintained at the GDF, and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request. Only persons authorized by the applicable ARB Certification Executive Orders shall be allowed to make vapor recovery or ISD system repairs.

- (2) If a second ISD failure alarm sounds indicating that the same problem still exists and gasoline dispensing is terminated, the ISD system may be reset to allow vehicle fueling to resume only if:

- (a) All required repairs have been made and all information associated with the repairs is recorded on an air district-approved form that is maintained at the GDF and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request, or

- (b) The dispenser(s) associated with the problem that triggered the failure alarm is isolated, removed from service and not operated until the required repairs are completed and, when completed, all information associated with the repairs is recorded on an air district-approved form that is maintained at the GDF and made available to the Executive Officer/Air Pollution Control Officer or their designee upon request.

The Executive Officer/Air Pollution Control Officer of an air district may also designate in writing a portion of a county as "rural" (i.e., allowing operators to correct the problems identified by the ISD system within seven (7) calendar days of the first ISD failure alarm pursuant to the provisions in section I. above and condition permits for gasoline dispensing facilities in such areas accordingly) where that portion has a projected population for 2005 of less than 132,000 people and is in a separate air basin. The Executive Officer/Air Pollution Control Officer of a local air district may further designate in writing additional "rural" areas (i.e., make them subject to the provision in section I. above) and condition permits for gasoline dispensing facilities in such areas accordingly even though such areas may be within a county having a projected population for 2005 of more than 132,000 people (see attached Table 1).

Please be advised that in the event that timely compliance cannot be achieved, the Hearing Board of the affected air district may grant an Order of Abatement or other administrative relief if the findings required by statute can be made, allowing gasoline dispensing to resume before the requisite repairs are completed.

Recommended Enforcement Action:

For the duration of the 18-month in-use performance evaluation period starting on July 1, 2006, it is recommended that air districts take enforcement action if the GDF owner/operator resets the ISD system without adhering to the permit conditions. It is also recommended that air districts take enforcement action if a GDF owner/operator dispenses gasoline while the ISD system is shut off, tampered with, disconnected or otherwise disabled. Air districts will continue to take appropriate enforcement action for violations of gasoline vapor recovery requirements determined by using current enforcement methods including, but not limited to, visual inspections, testing, and records (non-ISD) review. Enforcement action will also be taken for failure to maintain gasoline vapor control equipment in accordance with maintenance requirements specified by the applicable ARB Certification Executive Orders and California Health and Safety Code/Title 17 defects (title 17, California Code of Regulations, section 94006).

CAPCOA has surveyed the California air districts and CAPCOA believes that all districts concur with the recommended enforcement action.

Mr. Jay McKeeman

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If you have any questions, please call Dick Smith, CAPCOA Vapor Recovery sub Committee Liaison at 858-586-2700 or William V. Loscutoff, Chief, Monitoring and Laboratory Division, at 916-445-3742.

Sincerely,

  
Catherine Witherspoon  
Executive Officer, ARB

  
Barbara A. Lee, President  
CAPCOA

Attachment: Table 1 - "Projected 2005 Population by Counties"

cc: CAPCOA Board  
Dick Smith, CAPCOA Vapor Recovery sub Committee Liaison  
Kathleen Tschogl, ARB  
William V. Loscutoff, ARB  
Steve Arita, WSPA