

REGULATION 3.1

AIRBORNE TOXIC CONTROL MEASURE FOR BENZENE EMISSIONS FROM GASOLINE DISPENSING FACILITIES

RULE 3.1-100 - AUTHORITY

This regulation is adopted pursuant to the provisions of Sections 93100 and 93101, Titles 17 and 26, California Code of Regulations (CCR).

[Adopted January 10, 1989, August 20, 1991; Amended 5/6/03]

RULE 3.1-110 - PURPOSE

On January 25, 1985, pursuant to Section 39662 of the Health and Safety Code, the Air Resources Board (ARB) identified benzene as a toxic air contaminant for which there is not sufficient available scientific evidence to support the identification of a threshold exposure level below which no significant adverse health effects are anticipated (see Title 17, California Administrative Code, Section 93000). This Airborne Toxic Control Measure will reduce benzene emissions from gasoline dispensing facilities and resulting cancer risk and cancer incidence to the lowest level achievable through application of best available control technology at facilities subject to this measure.

RULE 3.1-120 - APPLICABILITY

This regulation shall apply to any new or modified gasoline dispensing facilities constructed or modified after January 16, 1989; or to any existing gasoline dispensing facilities with a gasoline throughput in excess of 480,000 gallons per year in 1988, or any calendar year thereafter.

RULE 3.1-125 - EXEMPTIONS

A gasoline dispensing facility shall be exempt from this Regulation if it meets all of the following criteria:

- (a) It is not a retail service station.
- (b) It has less than 3,000 gallons per year throughput
- (c) It has less than 500 gallons throughput in any one month.
- (d) It has a calculated screening risk value for benzene of less than ten in a million at the nearest property line using the current California Office of Health Hazard Assessment screening methodology, or such other methodology as may be approved by the Air Pollution Control Officer.

RULE 3.1-130 - DEFINITIONS

(a1) ARB Certified Vapor Recovery System:

A vapor recovery system that has been certified by the state board pursuant to Section 41954 of the Health and Safety Code.

(d1) District:

The Mendocino County Air Quality Management District as required by Section 40002 of the California Health and Safety Code.

(e1) Excavation:

Exposure to view by digging.

(e2) Existing Gasoline Dispensing Facility:

Any gasoline dispensing facility operating, constructed, or under construction as of January 16, 1989.

(g1) Gasoline:

Any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure of four pounds or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known or sold as gasoline.

(g2) Gasoline Dispensing Facility:

Any new or existing facility constructed for the storage and transfer of gasoline.

(h1) Hold-Open Latch:

A device that is part of an ARB-certified vapor recovery system and that allows for the hands-off refueling of a vehicle.

(l1) Leak Free:

A liquid leak of no more than three drops per minute excluding losses which occur upon disconnecting transfer fittings, provided such disconnect losses do not exceed 10 milliliters (0.34 fluid ounces) per disconnect, averaged over three disconnects.

(m1) Major Modification:

“Major Modification” as it applies to gasoline dispensing facilities means the addition, replacement, or removal of an underground storage tank, underground piping, vapor piping within a dispenser, or a dispenser of an existing installation. The replacement of a dispenser

is not a major modification when the replacement is occasioned by end user damage to a dispenser. [Adopted 5/6/03]

(m2) Modified Gasoline Dispensing Facility:

Replacement of one or more stationary gasoline storage tanks at an existing gasoline dispensing facility or excavation of 50 percent or more of an existing gasoline dispensing facility's total underground liquid piping from the stationary storage tanks to the gasoline dispensers.

(m3) Motor Vehicle:

The same meaning as defined in Section 415 of the Vehicle Code.

(n1) New Gasoline Dispensing Facility:

Any gasoline dispensing facility that was not constructed or being modified as of January 16, 1989.

(o1) Owner or Operator:

An owner or operator of a gasoline dispensing facility.

(p1) Phase I Vapor Recovery System:

A gasoline vapor recovery system that recovers vapors during the transfer of gasoline from delivery tanks into stationary storage tanks.

(p2) Phase II Vapor Recovery System:

A gasoline vapor recovery system that recovers vapors during the fueling of motor vehicles from stationary storage tanks.

(r1) Retail Service Station:

Any new or existing motor vehicle-fueling service station subject to payment of California sales tax on gasoline sales.

(t1) Topping Off:

An attempt to dispense gasoline to a motor vehicle fuel tank after a vapor recovery dispensing nozzle has shut off automatically.

(t2) Throughput:

The volume of gasoline dispensed at a gasoline dispensing facility in any calendar year.

(v1) Vapor Tight:

A leak of less than 100 percent of the lower explosive limit on a combustible gas detector measured at a distance of 2.5 cm (1 in.) from the source or no visible evidence of air entrapment in the sight glasses of liquid delivery hoses.

RULE 3.1-200 - PERMITS

- (a) Any owner or operator of an existing gasoline dispensing facility with a throughput in excess of 480,000 gallons per year in the calendar year 1988, or any year thereafter, shall file an application for an Authority to Construct Phase I and Phase II vapor recovery systems with the District. The application shall be filed with the District prior to April 1, 1990, and the applicant shall pay the fees as specified in Rule 3.1-300 - Fees.
- (b) Any owner or operator of a new gasoline dispensing facility of any throughput constructed after January 16, 1989, or of a modified retail service station of any throughput for which modifications are made after January 16, 1989, shall file an application for an Authority to Construct Phase I and II vapor recovery systems with the District prior to the start of construction, and shall pay the Fees as specified in Rule 3.1-300 - Fees.

RULE 3.1-300 - FEES

Every gasoline dispensing facility subject to permit by the District, including any federal, state or local government agency or public district, shall be subject to the fees scheduled below.

The fee schedules shall be adjusted annually in accordance with Section 42311 of the California Health and Safety Code and Section 2212 of the Revenue and Taxation Code to account for changes in the California Consumer Price Index for the preceding year. The fees shall not exceed the actual cost of District programs for the immediately preceding year with an adjustment not greater than the change in the annual California Consumer Price Index.

[Amended 5/6/03]

(a) Initial Fee

- (1) Every applicant for an Authority to Construct a new gasoline dispensing facility or to make modifications at an existing gasoline dispensing facility shall submit an application and plans to the District prior to the start of construction of the new station or of the modifications. The applicant shall pay an application fee in the amount prescribed in Regulation 1, Rule 1-300(a)(1).

(b) Annual Renewal Fee

- (1) On July 1, 2003, and each July 1 thereafter, all holders of a Permit to Operate for a gasoline dispensing facility shall be notified by the District of the annual permit renewal fees which shall be based upon the previous year's throughput in gallons per year in accordance with the following schedule from Regulation 1, Rule 310:

REGULATION 1, RULE 310,

SCHEDULE 9

FUEL STORAGE AND DISPENSING FACILITY SCHEDULE

Any source of air contaminant emissions for which an Authority to Construct or a Permit to Operate is required, through which fuel is stored and/or dispensed, shall be assessed a permit fee based upon the previous year's throughput in gallons per year in accordance with the following schedule:

Control System	Initial Application Fee	Annual Permit Fee
No vapor recovery system	\$100 + \$2.00/1000gal	\$60 + \$2.50/1000gal
Phase I vapor recovery system only	\$200 + \$3.00/1000gal	\$60 + \$2.25/1000gal
Phase II vapor recovery system only	\$200 + \$3.00/1000gal	\$60 + \$2.00/1000gal
Phase I and II vapor recovery system	\$300 + \$4.00/1000gal	\$60 + \$1.75/1000gal

Adjusted annually to account for changes in the previous years CPI factor.

[Adopted 5/6/03]

- (2) The Permit Holder shall pay such annual renewal fee to the District Office in person or by mail postmarked no later than August 30 of that year. If the renewal fee is not paid by August 30, the fee shall be increased by one-half the amount thereof, and the District shall thereupon promptly notify the Permit Holder by mail of the increased fee. If the increased fee is not paid within 60 days after such notice, the permit shall be immediately suspended and the District shall so notify the Permit Holder by mail. Any suspended permit may be reinstated only upon payment in full of all accrued fees and penalties or by filing a new application complete with application fee. Annual permit fees will continue to be required until such time as the Authority to Construct and/or Permit to Operate cancellation or denial becomes final and all operations involving the gasoline dispensing facility have ceased.

[Amended 5/6/03]

(c) Transfer of Ownership

An applicant for a Permit to Operate an existing gasoline dispensing facility because of change of ownership, for which a Permit to Operate has previously been granted, and to which no modifications have been made, shall pay a \$50.00 transfer fee per facility.

(d) Duplicate Permit

A request for a duplicate Permit to Operate shall be made in writing to the District within 10 days after the destruction, loss or defacement of a Permit to Operate and shall contain the

reason a duplicate permit is being requested. A fee of \$30 shall be paid for a duplicate Permit to Operate.

(e) Late Fee Penalty

If any gasoline dispensing facility is constructed, modified, or operated without the owner or operator obtaining an Authority to Construct in accordance with Rule 3.1-200, the applicant shall be assessed a late fee penalty that is one and one-half times the applicable initial fee. The assessment of a late fee penalty shall not limit the District's right to pursue any other remedy provided for by law.

(f) Re-inspection Fee

- (1) Facilities requiring a repeat of a scheduled equipment compliance test under observation by a District inspector will be billed for inspector time at a per hour rate determined each year by the Air Pollution Control Officer based on the District's stationary source program costs.
- (2) Facilities requiring a reinspection to verify correction of non-complying equipment will be billed for inspector time at a per hour rate determined each year by the Air Pollution Control Officer based on the District's stationary source program costs.

(g) Certification

It is hereby determined that the cost of reviewing permit applications, issuing authorizations, conducting inspections, testing and monitoring, and such other activities described herein pertaining to such permits, exceeds the fees prescribed herein.

[Adopted 5/6/03]

RULE 3.1-400 - BENZENE CONTROL FROM GASOLINE DISPENSING FACILITIES

(a) Phase I Vapor Recovery System Requirements

- (1) No owner or operator shall transfer, allow the transfer, or provide equipment for the transfer of gasoline, and no other person shall transfer gasoline from a gasoline delivery tank equipped with a vapor recovery system into a stationary storage tank at a gasoline dispensing facility unless an ARB-certified Phase I vapor recovery system is installed on the stationary storage tank and used during the transfer. The ARB-certified Phase I vapor recovery system shall meet a 90% vapor recovery efficiency as determined by ARB Test Method 2-1 or equivalent.
- (2) The provisions of Rule 3.1-400 (a)(1) shall not apply to:
 - (A) An existing gasoline dispensing facility with a gasoline throughput of 480,000 or fewer gallons during the calendar year 1988. If during any calendar year thereafter the gasoline throughput at any existing gasoline dispensing facility

exceeds 480,000 gallons, this exemption shall cease to apply commencing with the first day of the following calendar year.

(B) A transfer to a stationary storage tank at an existing gasoline dispensing facility that receives gasoline exclusively from delivery tanks that are not required to be equipped with vapor recovery systems.

(3) At the time of modifications at any existing gasoline dispensing facility of any throughput, ARB-certified Phase I vapor recovery systems shall be installed and used thereafter, except those gasoline dispensing facility which are exempt from the Phase I requirement by Rule 3.1-400 (a) (2) (B).

(b) Phase II Vapor Recovery System Requirements

(1) No owner or operator shall transfer, allow the transfer or provide equipment for the transfer of gasoline from a stationary storage tank at a gasoline dispensing facility into a motor vehicle fuel tank unless an ARB-certified Phase II vapor recovery system is installed and used during the transfer. The ARB-certified Phase II vapor recovery system shall meet a 90% vapor recovery efficiency as determined by ARB Test Method 2-1 or equivalent.

(2) The provisions of Rule 3.1-400 (b) (1) shall not apply to an existing retail service station that qualifies under the throughput exemption for Phase I requirements of Rule 3.1-400 (a) (2) (A).

(3) At the time of modifications at any existing gasoline dispensing facility of any throughput, ARB-certified Phase II vapor recovery systems shall be installed and used thereafter provided an ARB certified Phase II system exists.

(4) The operator of each gasoline dispensing facility, utilizing a Phase II system shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the facility, and shall include a warning that topping off may result in spillage or re-circulation of gasoline and is prohibited. Additionally, the instructions shall include a prominent display of the District's or the Air Resources Board's toll free telephone number for complaints.

RULE 3.1-500 - COMPLIANCE ENFORCEMENT

(a) No owner or operator of a gasoline dispensing facility, subject to the requirements of Rule 3.1-400 (a), shall transfer or allow the transfer of gasoline from a gasoline delivery tank into a stationary storage tank unless the Phase I vapor recovery system is operating in accordance with the manufacturers specifications and is maintained to be leak free, vapor tight and in good working order.

- (b) Phase II gasoline vapor recovery equipment shall be maintained to be leak free, vapor tight and in good working order. Whenever the Air Pollution Control Officer or a District Inspector determines that a Phase II vapor recovery system contains a defect the Air Pollution Control Officer or Inspector shall mark such system or component "Out of Order". No owner or operator shall use or allow the use of any Phase II system or any component thereof containing a defect identified in Title 17, California Administrative Code, Section 94006 until it has been repaired, replaced, or adjusted, as necessary to remove the defect, and, if required under Health and Safety Code, Section 41960.2, District personnel have re-inspected the system or have authorized its use pending re-inspection.

Phase II vapor recovery systems shall not be operated with defects including:

- (1) Torn or cut boots
- (2) Torn or cut face seals or face cones
- (3) Loose or broken retractors
- (4) Boots clamped or held in an open position
- (5) Leaking nozzles
- (6) Loose, missing or disconnected nozzle components
- (7) Crimped, cut or damaged vapor or fuel hoses)
- (8) Vapor assist recovery systems damaged, turned-off or inoperative
- (9) Non-"ARB certified" equipment or components

RULE 3.1-600 - COMPLIANCE SCHEDULE

- (a) Effective January 16, 1989, the owner or operator of any new or modified gasoline dispensing facility subject to this regulation shall comply with all its provisions at the time gasoline is first dispensed from the new or modified facility.
- (b) The owner or operator of an existing gasoline dispensing facility, subject to this regulation shall, prior to April 1, 1990, secure an Authority to Construct from the Mendocino County Air Quality Management District for installation of the equipment required by Rule 3.1-400. The owner or operator shall comply with all the provisions of Rule 3.1-400 prior to January 1, 1991.
- (c) The owner or operator of an existing gasoline dispensing facility where the operation or annual throughput has changed such that the exemption from either the Phase I or II requirements or both are no longer applicable, shall comply with the provisions of Rule 3.1-400 within 12 months after loss of said exemptions.

(Adopted January 10, 1989; amended August 20, 1991)