



SENATE BILL No. 726

June 30, 1993, Introduced by Senators HOFFMAN, EHLERS, KOIVISTO, GAST and DINGELL and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend the title and sections 2, 5, 6, 7, and 8 of Act No. 44 of the Public Acts of 1984, entitled "Motor fuels quality act," sections 2 and 7 as amended by Act No. 84 of the Public Acts of 1988 and sections 5 and 6 as amended by Act No. 127 of the Public Acts of 1986, being sections 290.642, 290.645, 290.646, 290.647, and 290.648 of the Michigan Compiled Laws; and to add sections 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 11, 12, and 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 5, 6, 7, and 8 of Act
2 No. 44 of the Public Acts of 1984, sections 2 and 7 as amended by
3 Act No. 84 of the Public Acts of 1988 and sections 5 and 6 as
4 amended by Act No. 127 of the Public Acts of 1986, being
5 sections 290.642, 290.645, 290.646, 290.647, and 290.648 of the

1 Michigan Compiled Laws, are amended and sections 9a, 9b, 9c, 9d,
2 9e, 9f, 9g, 9h, 9i, 11, 12, and 13 are added to read as follows:

3 TITLE

4 An act to provide purity and quality standards for motor
5 fuels; to regulate the transfer, sale, dispensing, or offering
6 motor fuels for sale; to provide for an inspection and testing
7 program; to provide for the powers and duties of certain state
8 agencies; to provide for the licensing of certain persons engaged
9 in the transfer, sale, dispensing, or offering of motor fuels for
10 sale; TO REGULATE VAPOR-RECOVERY SYSTEMS AT CERTAIN FACILITIES;
11 to provide for fees; and to provide ~~—fines—~~ REMEDIES and
12 PRESCRIBE penalties.

13 Sec. 2. As used in this act:

14 (a) "Additive" means any substance in gasoline other than
15 gasoline but does not include APPROVED blending components, other
16 than lead, SODIUM, AND PHOSPHATE components, introduced at refin-
17 eries or terminals as octane or product quality enhancers in
18 quantities of less than 1% of volume.

19 (b) "American society for testing and materials" means an
20 international nonprofit scientific and educational society
21 devoted to the promotion of knowledge of the materials of engi-
22 neering and the standardization of specification and methods of
23 testing.

24 (c) "Antiknock index" or "AKI" means an index number arrived
25 at by adding the motor octane number and the research octane
26 number, then dividing by 2.

1 (D) "BLENDER" MEANS A PERSON WHO BY HIMSELF OR BY HIS OR HER
2 AGENT ADDS AN OXYGENATE TO A GASOLINE.

3 (E) "BULK PURCHASER-END USER" MEANS A PERSON THAT IS AN
4 ULTIMATE CONSUMER OF GASOLINE AND WHICH RECEIVES DELIVERY OF THAT
5 PRODUCT INTO A STORAGE TANK OF AT LEAST 550-GALLON CAPACITY SUB-
6 STANTIALLY UNDER THE CONTROL OF THAT PERSON.

7 (F) "CARB" MEANS THE CALIFORNIA AIR RESOURCES BOARD.

8 (G) ~~(d)~~ "Department" means the department of agriculture.

9 (H) ~~(e)~~ "Director" means the director of the department of
10 agriculture OR HIS OR HER AUTHORIZED REPRESENTATIVE.

11 (I) "DISPENSING FACILITY" MEANS A SITE USED FOR VEHICLE GAS-
12 OLINE REFUELING THAT IS LOCATED IN AN AREA OF THIS STATE THAT HAS
13 BEEN DESIGNATED AS OZONE NONATTAINMENT AND CLASSIFIED AS MODER-
14 ATE, SERIOUS, SEVERE, OR EXTREME BY THE E.P.A. PURSUANT TO 40
15 C.F.R. SECTION 81.323, NOVEMBER 6, 1991. DISPENSING FACILITY
16 DOES NOT INCLUDE A FACILITY USED EXCLUSIVELY FOR THE REFUELING OF
17 AIRCRAFT, WATERCRAFT, OR VEHICLES THAT ARE DESIGNED FOR AGRICUL-
18 TURAL PURPOSES AND USED EXCLUSIVELY IN AGRICULTURAL OPERATIONS.

19 (J) "DISPENSING UNIT" MEANS A DEVICE DESIGNED FOR THE DELIV-
20 ERY OF GASOLINE IN WHICH 1 NOZZLE EQUATES TO 1 DISPENSING UNIT.

21 (K) ~~(f)~~ "Distributor" means a person who purchases, trans-
22 ports, or stores or causes the transportation or storage of gaso-
23 line at any point between a gasoline refinery and a retail outlet
24 or bulk purchaser-end user facility.

25 (L) "E.P.A." MEANS THE UNITED STATES ENVIRONMENTAL PROTEC-
26 TION AGENCY.

1 (M) ~~(g)~~ "Gasoline" means any fuel sold in this state THAT
2 IS SUITABLE for use in SPARK-IGNITION internal combustion
3 engines, and commonly or commercially known or sold as gasoline.

4 (N) "LEAK" MEANS LIQUID OR VAPOR LOSS FROM THE GASOLINE DIS-
5 PENSING SYSTEM OR VAPOR-RECOVERY SYSTEM AS DETERMINED BY VISUAL
6 INSPECTION OR FUNCTIONAL TESTING.

7 (O) "MODIFICATION" MEANS ANY CHANGE, REMOVAL, OR ADDITION,
8 OTHER THAN AN IDENTICAL REPLACEMENT, OF ANY COMPONENT CONTAINED
9 WITHIN A VAPOR-RECOVERY SYSTEM. THE RESULTANT MODIFICATION MUST
10 CONSTITUTE AN APPROVED VAPOR-RECOVERY SYSTEM.

11 (P) ~~(h)~~ "Motor octane number" or "MON" means a knock char-
12 acteristic of gasoline determined by use of standard procedures
13 on a motor engine.

14 (Q) "OPERATOR" MEANS A PERSON WHO OWNS, LEASES, OPERATES,
15 MANAGES, SUPERVISES, OR CONTROLS, DIRECTLY OR INDIRECTLY, A
16 GASOLINE-DISPENSING FACILITY.

17 (R) "OXYGENATE" MEANS AN OXYGEN-CONTAINING, ASHLESS, ORGANIC
18 COMPOUND, SUCH AS ALCOHOL OR ETHER, THAT MAY BE USED AS FUEL OR
19 FUEL SUPPLEMENT.

20 (S) ~~(i)~~ "Person" means an individual, sole proprietorship,
21 partnership, corporation, association, or other legal entity.

22 (T) ~~(j)~~ "Refiner" means a person who owns, leases, oper-
23 ates, controls, or supervises a refinery.

24 (U) ~~(k)~~ "Refinery" means a plant at which gasoline is
25 produced.

1 (V) ~~(I)~~ "Research octane number" or "RON" means a knock
2 characteristic of gasoline determined by use of standard
3 procedures on a research engine.

4 (W) ~~(m)~~ "Retail dealer" means a person who owns, leases,
5 operates, controls, or supervises a retail outlet.

6 (X) ~~(n)~~ "Retail outlet" means an establishment at which
7 gasoline is sold or offered for sale to the public.

8 ~~(o) "Bulk purchaser-end user" means a person that is an
9 ultimate consumer of gasoline and which receives delivery of that
10 product into a storage tank of at least 550-gallon capacity sub-
11 stantially under the control of that person.~~

12 (Y) "RULE" MEANS RULES PROMULGATED PURSUANT TO THE ADMINIS-
13 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
14 1969, BEING SECTIONS 24.271 TO 24.328 OF THE MICHIGAN COMPILED
15 LAWS.

16 (Z) "VAPOR-RECOVERY SYSTEM" MEANS GASOLINE-DISPENSING SYSTEM
17 APPROVED BY THE DEPARTMENT THAT PREVENTS 95% OR MORE OF THE VOLA-
18 TILE ORGANIC COMPOUNDS FROM BEING EMITTED DURING GASOLINE
19 REFUELING.

20 Sec. 5. (1) Except as provided by federal law or regula-
21 tion, in the manufacture of gasoline at any refinery in this
22 state, a refiner shall not manufacture gasoline at a refinery in
23 this state unless the gasoline meets the requirements ~~provided~~
24 ~~for~~ in section 3. EXCEPT AS PROVIDED BY FEDERAL LAW OR REGULA-
25 TION, A BLENDER SHALL NOT BLEND GASOLINE UNLESS THE FINISHED
26 BLEND MEETS THE REQUIREMENTS IN SECTION 3.

1 (2) Except as provided by federal law or regulation, a
2 distributor shall not sell or transfer to any distributor, retail
3 dealer, or bulk purchaser-end user any gasoline unless that gaso-
4 line meets the requirements ~~provided for~~ in section 3.

5 (3) A carrier or an employee or agent of a carrier, whether
6 operating under contract or tariff, shall not cause gasoline
7 tendered to the carrier for shipment or transfer to another car-
8 rier, distributor, or retail dealer to fail to comply, at the
9 time of delivery, with the requirements ~~provided for~~ in section
10 3.

11 (4) A person shall not knowingly sell, dispense, or offer
12 for sale gasoline unless that gasoline meets the requirements
13 ~~provided for~~ in section 3.

14 (5) A refiner or distributor shall not transfer, sell, dis-
15 pense, or offer gasoline for sale in this state to a distributor
16 unless the refiner or distributor indicates on each bill,
17 invoice, or other instrument evidencing a delivery of gasoline,
18 the name and wholesale distributors license number issued pursu-
19 ant to Act No. 150 of the Public Acts of 1927, being sections
20 207.101 to 207.202 of the Michigan Compiled Laws, of the whole-
21 sale distributor who received delivery of the gasoline.

22 (6) A distributor or refiner shall not transfer, sell, dis-
23 pense, or offer gasoline for sale in this state to a retail
24 dealer unless the distributor indicates on each bill, invoice, or
25 other instrument evidencing a delivery of gasoline, the name and
26 license number issued pursuant to this act, of the retail dealer
27 who received delivery of the gasoline.

1 (7) A bill, invoice, or other instrument evidencing a
2 delivery of gasoline issued by a refiner or distributor for
3 deliveries of gasoline to purchasers who ~~do not~~ ARE NOT
4 REQUIRED TO hold a license issued pursuant to Act No. 150 of the
5 Public Acts of 1927 or this act shall clearly indicate the name
6 and address and other information necessary to identify the pur-
7 chaser of the gasoline.

8 (8) A bill, invoice, or other instrument evidencing a deliv-
9 ery of gasoline required by subsection (5), (6), or (7) shall
10 include a guarantee that the gasoline delivered meets the
11 requirements ~~provided for~~ in section 3 and shall indicate the
12 concentration range of alcohol in the gasoline, except for alco-
13 hols or ethers that have a molecular weight greater than ethanol
14 and are not mixed with methanol or ethanol, or both and shall
15 indicate the possible presence, without regard to concentration
16 range, of any alcohols or ethers that have a molecular weight
17 greater than ethanol and are not mixed with methanol or ethanol,
18 or both.

19 (9) A refiner, distributor, bulk purchaser-end user, or
20 retail dealer shall not transfer, sell, dispense, or offer gaso-
21 line for sale unless that gasoline is visibly free of undissolved
22 water, sediments, and other suspended matter and is clear and
23 bright at an ambient temperature of 70 degrees Fahrenheit.

24 (10) A person who violates this section or rules promulgated
25 ~~pursuant to~~ UNDER this section is liable for a civil fine not
26 to exceed \$10,000.00 for each and every day of the continuance of
27 the violation. A civil fine ordered pursuant to this section

1 shall be submitted to the state treasurer for deposit in the
2 gasoline inspection and testing fund created by section 8.

3 Sec. 6. (1) Before a distributor or retail dealer engages
4 in transferring, selling, dispensing, or the offering for sale
5 gasoline in this state, the distributor or retail dealer shall
6 obtain a license from the department for each retail outlet oper-
7 ated by that person. In administering the licensing under this
8 section, the department may attempt to coordinate such licensing
9 with the licensing applicable to gasoline administered by the
10 department of treasury pursuant to Act No. 150 of the Public Acts
11 of 1927, being sections 207.101 to 207.202 of the Michigan
12 Compiled Laws, and THE GENERAL SALES TAX ACT, Act No. 167 of the
13 Public Acts of 1933, being sections 205.51 to 205.78 of the
14 Michigan Compiled Laws.

15 (2) A license expires annually on November 30 ~~and shall be~~
16 UNLESS renewed before December 1 of each year OR unless sus-
17 pended, denied, or revoked by the department.

18 (3) The fee for a license is \$15.00 for each year or portion
19 of a year. A LICENSE SHALL NOT BE ISSUED OR RENEWED UNTIL THE
20 FEE IS PAID. A HEARING IS NOT REQUIRED PRIOR TO THE REFUSAL TO
21 ISSUE OR REVIEW A LICENSE UNDER THIS SUBSECTION. Fees collected
22 shall be deposited in the gasoline inspection and testing fund.

23 (4) An application for a license shall be made to the
24 department upon a form furnished by the department. The com-
25 pleted form shall contain the information requested by the
26 department and shall be accompanied by the fee specified in
27 subsection (3).

1 (5) The director may suspend, deny, or revoke a license
2 issued pursuant to this act ~~for failure to pay the fee required~~
3 ~~by subsection (3),~~ for failure to comply with the requirements
4 provided for in section 3, for failure to provide notice as pro-
5 vided in section 4, for violating section 31 of the weights and
6 measures act of 1964, Act No. 283 of the Public Acts of 1964,
7 being section 290.631 of the Michigan Compiled Laws, ~~when~~ IF
8 that violation occurs at any of the licensee's retail outlets and
9 involves the transferring, selling, dispensing, or the offering
10 for sale of gasoline in this state, or for otherwise failing to
11 comply with this act or a rule PROMULGATED UNDER THIS ACT or AN
12 order ~~promulgated or~~ issued under this act.

13 (6) This section ~~shall~~ DOES not apply until ~~90 days after~~
14 ~~the effective date of this act~~ JUNE 29, 1985.

15 (7) If a person licensed under this act is convicted of a
16 willful violation under section 31 of the weights and measures
17 act of 1964, Act No. 283 of the Public Acts of 1964, any license
18 issued pursuant to this act shall be revoked for 2 years.

19 (8) A suspension, revocation, or denial of a license of an
20 individual shall suspend, revoke, or deny any other license held
21 or applied for by that individual issued under this act. The
22 license of a corporation, partnership, or other association,
23 shall be suspended when a license or license application of a
24 partner, trustee, director, or officer, member, or a person exer-
25 cising control of the corporation, partnership, or other associa-
26 tion is suspended, revoked, or denied. The suspension shall
27 remain in force until the director determines that the disability

1 created by the suspension, revocation, or denial has been
2 removed.

3 (9) BEFORE A BLENDER ENGAGES IN THE TRANSFERRING, SELLING,
4 DISPENSING, OR OFFERING FOR SALE BLENDED GASOLINE IN THIS STATE,
5 THE BLENDER SHALL REGISTER THE FINISHED PRODUCT WITH THE DEPART-
6 MENT AND PROVIDE TO THE DEPARTMENT TEST RESULTS AS THE DEPARTMENT
7 CONSIDERS NECESSARY. IF THE PRODUCT DOES NOT COMPLY WITH THE
8 REQUIREMENTS OF SECTION 3, THE BLENDER SHALL PROVIDE THE DEPART-
9 MENT WITH A WRITTEN LIST OF THE BUSINESS NAMES AND ADDRESSES TO
10 WHOM THE BLENDED PRODUCT IS SOLD.

11 Sec. 7. (1) The director shall establish a gasoline inspec-
12 tion, investigation, and testing program. The purpose of the
13 inspection, investigation, and testing program ~~shall be~~ IS to
14 determine whether gasoline transferred, sold, dispensed, or
15 offered for sale in this state meets the requirements provided in
16 this act, to sample, to investigate allegations of fraud, to
17 inspect and investigate violations of the weights and measures
18 act of 1964, Act No. 283 of the Public Acts of 1964, being sec-
19 tions 290.601 to 290.634 of the Michigan Compiled Laws, and
20 whether notice required by section 4 is provided. The program
21 shall provide for a regular system of monitoring gasoline sold or
22 offered for sale in this state. The department shall implement
23 the inspection, investigation, and testing program as provided in
24 subsection (8). The expenses of operating the program shall be
25 paid from money in the gasoline inspection and testing fund cre-
26 ated in section 8.

1 (2) As part of the inspection and testing program the
2 director shall maintain a 24-hour toll free consumer hot line to
3 receive consumer complaints regarding VAPOR-RECOVERY SYSTEMS AND
4 the purity and quality of gasoline sold or offered for sale in
5 this state.

6 (3) If the director has reason to believe a violation of
7 section 5 or rules promulgated ~~pursuant to~~ UNDER section 5 has
8 occurred, the director may require a refiner, distributor,
9 STORAGE FACILITY, BLENDER, bulk purchaser-end user, or retail
10 dealer to ~~report information~~ PROVIDE to the department ~~of~~
11 ~~agriculture regarding the receipt, transfer, delivery, or sale of~~
12 ~~gasoline and to allow the reproduction of that information at all~~
13 ~~reasonable times, except that a refiner, distributor, bulk~~
14 ~~purchaser-end user, or retail dealer shall not be required to~~
15 ~~furnish information requested under this section if the refiner,~~
16 ~~distributor, bulk purchaser end user, or retail dealer estab-~~
17 ~~lishes that the information is not maintained in the normal~~
18 ~~course of business~~ THE ORIGINAL DOCUMENTS PERTAINING TO THE
19 RECEIPT, TRANSFER, DELIVERY, STORAGE, OR SALE OF GASOLINE AND TO
20 ALLOW THE ORIGINAL DOCUMENTS TO REMAIN IN THE POSSESSION OF THE
21 DEPARTMENT. IF ORIGINAL DOCUMENTS REMAIN IN THE POSSESSION OF
22 THE DEPARTMENT AND THE DOCUMENTS ARE NECESSARY FOR CONDUCTING
23 BUSINESS, THE DEPARTMENT SHALL PROVIDE COPIES OF THE DOCUMENTS TO
24 THE REFINER, DISTRIBUTOR, BLENDER, BULK PURCHASER-END USER, OR
25 RETAIL DEALER UPON REQUEST. A refiner, distributor, bulk
26 purchaser-end user, BLENDER, or retail dealer shall preserve
27 information regarding the receipt, transfer, delivery, or sale of

1 gasoline, INCLUDING LOADING TICKETS, BILLS OF LADING, DROP
2 TICKETS, METER TICKETS, INVOICES, AND BILLINGS, for 3 years. A
3 RETAIL OUTLET SHALL RETAIN ON ITS PREMISES THE ORIGINAL DROP
4 TICKETS AND INVOICES FOR 1 MONTH BEFORE TRANSFER TO ANOTHER LOCA-
5 TION UNLESS THE STORAGE LOCATION IS EASILY ACCESSIBLE FROM THE
6 RETAIL OUTLET AND THE ORIGINAL RECORDS ARE DELIVERED TO THE
7 RETAIL OUTLET FOR RECEIPT BY THE DEPARTMENT WITHIN 24 HOURS AFTER
8 A WRITTEN REQUEST FOR THE RECORDS HAS BEEN GIVEN TO THE RETAIL
9 OUTLET.

10 (4) The director ~~or an authorized representative of the~~
11 ~~director,~~ upon presentation of appropriate credentials, ~~shall~~
12 ~~have a right to~~ MAY enter upon or through any retail outlet,
13 bulk purchaser-end user facility, DISPENSING FACILITY, or the
14 premises or property of any refiner or distributor, and ~~shall~~
15 ~~have the right to~~ MAY make inspections, take samples, and con-
16 duct tests DURING ANY HOURS THE BUSINESS IS OPERATING AND MAY
17 EXAMINE RECORDS during normal business hours to determine compli-
18 ance with ~~sections 4 and 5~~ THIS ACT.

19 (5) In addition to the powers provided in this act, the
20 director ~~shall have~~ HAS all the powers to enforce this act that
21 the director has under the weights and measures act of 1964, Act
22 No. 283 of the Public Acts of 1964, being sections 290.601 to
23 290.634 of the Michigan Compiled Laws.

24 (6) The director may transmit any information obtained pur-
25 suant to the inspection and testing program to any other agency
26 of this state if the information will assist the other agency to
27 carry out any of the agency's regulatory functions or

1 responsibilities related to the transfer, sale, dispensing, or
2 offering of gasoline for sale in this state.

3 (7) The director may promulgate rules ~~pursuant to the~~
4 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
5 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
6 ~~Compiled Laws,~~ for the purpose of implementing and enforcing
7 this act.

8 (8) The department shall implement the inspection and test-
9 ing program provided in subsection (1) as follows:

10 (a) Inspection and testing for standards regarding lead,
11 alcohol, free water, and sediments within 90 days after the
12 effective date of this act.

13 (b) Inspection and testing for any other standards ~~within 2~~
14 ~~years after the effective date of this act~~ BY MARCH 29, 1987.

15 Sec. 8. The gasoline inspection and testing fund is created
16 in the state treasury and shall be administered by the director.
17 The state treasurer shall direct the investment of money in the
18 fund. The money in the fund and earnings from investment of the
19 money shall be used exclusively for the purpose of funding the
20 gasoline inspection and testing program AND THE VAPOR-RECOVERY
21 PROGRAM established ~~by section 7~~ IN THIS ACT. Any civil fines
22 ordered in an enforcement proceeding brought under sections 4 and
23 5, any money that may be appropriated from the general fund for
24 the purposes of ~~section 7~~ SECTIONS 7 AND 9A TO 9I, and any
25 money made available to the director by an agency of the federal
26 government for purposes of ~~section 7~~ SECTIONS 7 AND 9A TO 9I
27 shall be deposited in the fund. IN ADDITION, ANY OTHER FUNDS

1 AUTHORIZED BY LAW FOR THE ENFORCEMENT OF THIS ACT MAY BE
2 DEPOSITED IN THE GASOLINE INSPECTION AND TESTING FUND.

3 SEC. 9A. THE DIRECTOR SHALL PROMULGATE RULES TO IMPLEMENT
4 SECTIONS 9B TO 9I. IF THESE RULES ARE NOT PROMULGATED BEFORE
5 MAY 1, 1994, THE PROPOSED RULES ISSUED IN ACCORDANCE WITH THIS
6 SECTION SHALL BE CONSIDERED THE FINAL RULES TO THE EXTENT ALLOW-
7 ABLE BY STATE LAW.

8 SEC. 9B. (1) A DISPENSING FACILITY THAT NEVER DISPENSES
9 10,000 GALLONS (37,850 LITERS) OR MORE GASOLINE PER MONTH ON
10 AVERAGE IN ANY 12-MONTH PERIOD, BEGINNING WITH THE 12 MONTHS PRE-
11 CEDING THE EFFECTIVE DATE OF THIS SECTION, IS EXEMPT FROM THE
12 REQUIREMENTS OF SECTIONS 9A TO 9F AND 9I. IF THE DISPENSING
13 FACILITY IS INACTIVE FOR ANY PERIOD DURING THE 12-MONTH AVERAGING
14 PERIOD, THE AVERAGE SHALL BE CALCULATED BASED UPON THE MONTHS OF
15 ACTUAL OPERATION. A DISPENSING FACILITY THAT DISPENSES 10,000 OR
16 MORE GALLONS GASOLINE PER MONTH ON AVERAGE IN ANY 12-MONTH PERIOD
17 IS SUBJECT TO SECTIONS 9A TO 9F AND 9I AND SHALL CONTINUE TO BE
18 SUBJECT TO THESE SECTIONS EVEN IF THE FACILITY'S GASOLINE
19 THROUGHPUT LATER FALLS BELOW THE EXEMPTION THRESHOLD.

20 (2) A DISPENSING FACILITY THAT CLAIMS OR INTENDS TO CLAIM
21 EXEMPT STATUS UNDER THIS SECTION AND WHICH HAS 2,000 OR MORE GAL-
22 LONS STATIONARY GASOLINE STORAGE CAPACITY BEGINNING IN 1994 SHALL
23 SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT BY MARCH 1 OF EACH YEAR
24 FOR GASOLINE DISPENSED DURING THE PRECEDING YEAR. THESE THROUGH-
25 PUT RECORDS SHALL CONTAIN THE QUANTITY OF GASOLINE DISPENSED AT
26 THE FACILITY DURING EACH MONTH OF OPERATION FOR THE PRECEDING
27 CALENDAR YEAR AND SHALL LIST ANY PERIOD OF TIME THE FACILITY WAS

1 NOT OPERATIONAL DURING THE PRECEDING CALENDAR YEAR. THE DIRECTOR
2 SHALL REVIEW AND VERIFY THE ACCURACY OF THE DOCUMENTS BEFORE
3 MAKING FINAL DETERMINATION ON ELIGIBILITY FOR EXEMPTION.

4 (3) A GASOLINE DISPENSING FACILITY EXEMPT UNDER THIS SECTION
5 SHALL MAINTAIN RECORDS OF THE GASOLINE DISPENSED, WHICH WILL
6 ALLOW THE GASOLINE THROUGHPUT FOR EACH CALENDAR MONTH TO BE CON-
7 TINUOUSLY DETERMINED. THESE RECORDS SHALL BE MAINTAINED FOR 3
8 YEARS AND SHALL BE SUBMITTED TO THE DIRECTOR WITHIN 30 DAYS FROM
9 A REQUEST.

10 (4) IF A DISPENSING FACILITY'S GASOLINE THROUGHPUT FOR ANY
11 CALENDAR MONTH EVER EXCEEDS THE APPLICABILITY THRESHOLD, THE
12 OPERATOR SHALL NOTIFY THE DEPARTMENT WITHIN 30 DAYS.

13 SEC. 9C. (1) VAPOR-RECOVERY SYSTEM EQUIPMENT SHALL COMPLY
14 WITH ALL CERTIFICATION REQUIREMENTS. TO BE CERTIFIED, THE
15 VAPOR-RECOVERY SYSTEM SHALL MEET A MINIMUM OF 95% EMISSION REDUC-
16 TION EFFICIENCY BY ANY OF THE FOLLOWING CRITERIA:

17 (A) TESTED AND APPROVED BY CARB-RECOGNIZED TESTING METHODS.

18 (B) TESTED AND APPROVED BY AN EQUIVALENT TESTING PROGRAM
19 ADOPTED AND CONDUCTED BY THE DEPARTMENT, OR BY A THIRD PARTY REC-
20 GONIZED BY THE DEPARTMENT AND BY THE E.P.A..

21 (C) A CARB-CERTIFIED SYSTEM PURSUANT TO SECTION 41954 OF THE
22 CALIFORNIA HEALTH AND SAFETY CODE.

23 (2) A VAPOR-RECOVERY SYSTEM IS CONSIDERED TO CONTAIN A SUB-
24 STANTIAL DEFECT IF ANY OF THE FOLLOWING EXIST:

25 (A) ABSENCE OF OR DISCONNECTION OF ANY COMPONENT THAT IS A
26 PART OF THE APPROVED SYSTEM.

1 (B) A VAPOR HOSE IS CRIMPED OR FLATTENED SO THAT THE VAPOR
2 PASSAGE IS BLOCKED, OR THE PRESSURE DROP THROUGH THE VAPOR HOSE
3 EXCEEDS BY A FACTOR OF 2 OR MORE THE VALUE AS CERTIFIED IN THE
4 APPROVED SYSTEM.

5 (C) A NOZZLE BOOT THAT IS TORN IN EITHER OR BOTH OF THE FOL-
6 LOWING WAYS.

7 (i) A TRIANGULAR SHAPED OR SIMILAR TEAR MORE THAN 1/2 INCH
8 ON A SIDE, OR A HOLE MORE THAN 1/2 INCH IN DIAMETER.

9 (ii) A SLIT MORE THAN 1 INCH IN LENGTH.

10 (D) A FACEPLATE OR FLEXIBLE CONE ON A BALANCE NOZZLE OR A
11 NOZZLE IN A VACUUM ASSIST-TYPE SYSTEM, THAT IS DAMAGED SO THAT
12 THE ABILITY TO ACHIEVE A SEAL WITH A FILL PIPE INTERFACE IS
13 AFFECTED FOR AT LEAST 1/4 OF THE CIRCUMFERENCE OF THE FACEPLATE
14 ACCUMULATED.

15 (E) A NOZZLE SHUTOFF MECHANISM THAT MALFUNCTIONS IN ANY
16 MANNER.

17 (F) VAPOR RETURN LINES, INCLUDING SUCH COMPONENTS AS SWIV-
18 ELS, ANTIRECIRCULATION VALVES, AND UNDERGROUND PIPING, THAT MAL-
19 FUNCTION OR ARE BLOCKED, OR ARE RESTRICTED SO THAT THE PRESSURE
20 DROP THROUGH THE LINE EXCEEDS BY A FACTOR OF 2 OR MORE THE VALUE
21 AS CERTIFIED IN THE APPROVED SYSTEM.

22 (G) A VAPOR PROCESSING UNIT THAT IS INOPERATIVE.

23 (H) A VACUUM PRODUCING DEVICE THAT IS INOPERATIVE.

24 (I) PRESSURE/VACUUM RELIEF VALVES, VAPOR CHECK VALVES, OR
25 DRY BREAKS THAT ARE INOPERATIVE.

1 (J) ANY EQUIPMENT DEFECT THAT IS IDENTIFIED BY THE
2 DEPARTMENT AS SUBSTANTIALLY IMPAIRING THE EFFECTIVENESS OF THE
3 SYSTEM IN REDUCING REFUELING VAPOR EMISSIONS.

4 SEC. 9D. (1) AN OPERATOR SHALL NOT TRANSFER, PERMIT THE
5 TRANSFER OF, OR PROVIDE EQUIPMENT FOR THE TRANSFER OF GASOLINE
6 FROM A STATIONARY STORAGE TANK AT A DISPENSING FACILITY INTO A
7 MOTOR VEHICLE FUEL TANK UNLESS AN APPROVED VAPOR-RECOVERY SYSTEM
8 HAS BEEN INSTALLED AND IS PROPERLY USED DURING THE TRANSFER. THE
9 SYSTEM SHALL USE COAXIAL HOSES AT THE DISPENSERS, AND SHALL NOT
10 CONTAIN ANY COMPONENTS, SUCH AS REMOTE VAPOR CHECK VALVES IN
11 BALANCE-TYPE SYSTEMS THAT WOULD SIGNIFICANTLY IMPEDE THE PER-
12 FORMANCE OF THE FUNCTIONAL TESTS REQUIRED IN SECTION 9F.

13 (2) THE OPERATOR OF A DISPENSING FACILITY SHALL DEMONSTRATE
14 PROPER VAPOR-RECOVERY SYSTEM FUNCTION BY THE VAPOR-RECOVERY
15 SYSTEM COMPLIANCE TESTS AS REQUIRED IN SECTION 9F.

16 (3) THE OPERATOR SHALL MAINTAIN THE VAPOR-RECOVERY SYSTEM IN
17 PROPER OPERATING CONDITION AS SPECIFIED BY THE MANUFACTURER AND
18 FREE OF DEFECTS THAT COULD IMPAIR THE EFFECTIVENESS OF THE
19 SYSTEM. ANY COMPONENT IDENTIFIED AS DEFECTIVE, BUT WHICH DOES
20 NOT SUBSTANTIALLY IMPAIR THE EFFECTIVENESS OF THE SYSTEM, MAY
21 REMAIN IN OPERATION BUT SHALL BE REPAIRED OR REPLACED WITHIN 15
22 DAYS AFTER IDENTIFICATION. UPON IDENTIFICATION OF ANY SUBSTAN-
23 TIAL DEFECT, THE OPERATOR SHALL IMMEDIATELY TAG "OUT-OF-ORDER"
24 ALL DISPENSING EQUIPMENT FOR WHICH VAPOR RECOVERY HAS BEEN
25 IMPAIRED. TAGGED EQUIPMENT SHALL BE RENDERED INOPERABLE AND THE
26 TAG OR TAGS SHALL NOT BE REMOVED UNTIL THE DEFECTIVE EQUIPMENT
27 HAS BEEN REPAIRED, REPLACED, OR ADJUSTED, AS NECESSARY.

1 (4) THE VAPOR-RECOVERY SYSTEM AND GASOLINE-DISPENSING
2 EQUIPMENT SHALL BE MAINTAINED TO HAVE NO LEAKS.

3 (5) THE OPERATOR SHALL CONDUCT EQUIPMENT INSPECTIONS AT
4 LEAST WEEKLY TO DETERMINE IF THE VAPOR-RECOVERY SYSTEM IS OPERAT-
5 ING IN ACCORDANCE WITH THIS ACT AND RULES PROMULGATED UNDER THIS
6 ACT. THE INSPECTION SHALL INCLUDE ALL OF THE FOLLOWING:

7 (A) A VISUAL INSPECTION OF MOTOR VEHICLE REFUELING TO ENSURE
8 THAT THE FLOW SHUTOFF MECHANISMS ARE WORKING PROPERLY.

9 (B) AN INSPECTION OF ALL BOOTS, HOSES, FACECONES, AND FACE-
10 PLATES FOR TEARS OR RIPS.

11 (C) A VISUAL INSPECTION OF ALL DISPENSING EQUIPMENT FOR ANY
12 GASOLINE LEAKS.

13 (D) AN INSPECTION OF ALL GASOLINE DELIVERY NOZZLES FOR
14 TIGHTNESS, BENDS, AND CRIMPS WHICH MAY IMPEDE VAPOR RECOVERY.

15 (6) A NOTICE OF THE BENEFITS AND EXPLANATION OF OPERATION OF
16 A VAPOR-RECOVERY SYSTEM SHALL BE CONSPICUOUSLY POSTED IN A MANNER
17 SPECIFIED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 9H(1)(D).

18 (7) A PERSON SHALL NOT REPAIR, MODIFY, OR PERMIT THE REPAIR
19 OR MODIFICATION OF THE VAPOR-RECOVERY SYSTEM OR ITS COMPONENTS SO
20 THAT THEY ARE DIFFERENT FROM THEIR APPROVED CONFIGURATION; OR
21 TAMPER WITH, OR PERMIT TAMPERING WITH, THE SYSTEM IN A MANNER
22 THAT WOULD IMPAIR THE OPERATION OR EFFECTIVENESS OF THE SYSTEM.

23 (8) THE OPERATOR SHALL RECERTIFY THE FUNCTION OF THE
24 VAPOR-RECOVERY SYSTEM AT LEAST EVERY 5 YEARS OR UPON MAJOR SYSTEM
25 REPLACEMENT OR MODIFICATION, WHICHEVER COMES FIRST.

26 RECERTIFICATION REQUIRES A LEAK TEST AND ALL OTHER FUNCTIONAL
27 TESTS REQUIRED BY THE DEPARTMENT.

1 (9) THE OPERATOR SHALL ENSURE THAT AT LEAST 1 EMPLOYEE OF
2 THE DISPENSING FACILITY POSSESSES A VALID TRAINING CERTIFICATE ON
3 THE OPERATION AND MAINTENANCE OF THE VAPOR-RECOVERY SYSTEM AND ON
4 THE VAPOR-RECOVERY PROGRAM AND ITS REQUIREMENTS, AS SPECIFIED IN
5 SECTION 9E. IF THE DISPENSING FACILITY EMPLOYEE WHO COMPLETED
6 THE TRAINING COURSE LEAVES THE EMPLOYMENT OF THE DISPENSING
7 FACILITY, AT LEAST 1 OTHER EMPLOYEE OF THE DISPENSING FACILITY
8 SHALL SUCCESSFULLY COMPLETE A TRAINING COURSE WITHIN 90 DAYS
9 AFTER DEPARTURE OF THE PREVIOUSLY TRAINED EMPLOYEE. IF A DIS-
10 PENSING FACILITY CHANGES THE TYPE OF VAPOR-RECOVERY SYSTEM USED
11 BY THE FACILITY, NEW TRAINING OR RETRAINING OF AN EMPLOYEE UNDER
12 THIS SUBSECTION SHALL BE COMPLETED BEFORE THE START-UP OF THE NEW
13 VAPOR-RECOVERY SYSTEM.

14 SEC. 9E. THE TRAINING REQUIRED BY SECTION 9D(9) SHALL BE
15 CONDUCTED AND CERTIFICATES ISSUED BY THE DEPARTMENT OR BY A
16 PERSON ACCREDITED BY THE DEPARTMENT TO CONDUCT SUCH TRAINING.
17 THE TRAINING SHALL INCLUDE ALL OF THE FOLLOWING SUBJECT AREAS:

18 (A) THE PURPOSES AND BENEFITS OF THE VAPOR-RECOVERY PROGRAM
19 AND SYSTEM.

20 (B) THE OPERATIONS AND FUNCTIONS OF THE VAPOR-RECOVERY
21 SYSTEM INSTALLED AT THE DISPENSING FACILITY.

22 (C) MAINTENANCE SCHEDULES, REQUIREMENTS, AND PROCEDURES FOR
23 THE EQUIPMENT.

24 (D) EQUIPMENT WARRANTIES.

25 (E) EQUIPMENT MANUFACTURER CONTACTS FOR PARTS AND SERVICES,
26 INCLUDING THEIR NAMES, ADDRESSES, AND TELEPHONE NUMBERS, OR THE

1 NAME AND TELEPHONE NUMBER OF THE DISPENSING FACILITY EMPLOYEE WHO
2 IS RESPONSIBLE FOR THE MAINTENANCE OF THE VAPOR-RECOVERY SYSTEM.

3 (F) THE REQUIREMENTS OF THIS ACT, INCLUDING THE OPERATING
4 AND MAINTENANCE REQUIREMENTS OF SECTIONS 9D AND 9F.

5 (G) THE POTENTIAL PENALTIES FOR VIOLATION OF THIS ACT.

6 (H) INFORMATION ON THE DEPARTMENT, INCLUDING THE OFFICE
7 ADDRESS AND TELEPHONE NUMBER.

8 SEC. 9F. (1) ONCE A VAPOR-RECOVERY SYSTEM IS IN OPERATIONAL
9 CONDITION AND READY FOR USE, INITIAL TESTING TO VERIFY THE PROPER
10 INSTALLATION AND FUNCTION OF THE ENTIRE SYSTEM, BOTH INFRASTRUC-
11 TURE PLUMBING AND ABOVEGROUND EQUIPMENT, SHALL BE CONDUCTED AS
12 REQUIRED UNDER SECTION 9C. THE INITIAL COMPLIANCE TESTING SHALL
13 INCLUDE ALL OF THE FOLLOWING:

14 (A) BAY AREA SOURCE TEST PROCEDURE ST-30, LEAK TEST PROCE-
15 DURE; SAN DIEGO TEST PROCEDURE TP-91-1, PRESSURE DECAY/LEAK TEST
16 PROCEDURE; OR OTHER EQUIVALENT TEST PROCEDURE THE DIRECTOR MAY
17 ESTABLISH BY RULES.

18 (B) BAY AREA SOURCE TEST PROCEDURE ST-27, DYNAMIC BACK PRES-
19 SURE; THE SAN DIEGO TEST PROCEDURE TP-91-2, PRESSURE DROP VS.
20 FLOW/LIQUID BLOCKAGE TEST PROCEDURE; OR OTHER EQUIVALENT TEST
21 PROCEDURE THE DIRECTOR MAY ESTABLISH BY RULES.

22 (C) BAY AREA TEST PROCEDURE ST-37, LIQUID REMOVAL DEVICES;
23 OR OTHER EQUIVALENT TEST PROCEDURE THE DIRECTOR MAY ESTABLISH BY
24 RULES.

25 (2) TESTS SPECIFIED IN THIS SECTION SHALL BE CONDUCTED IN
26 ACCORDANCE WITH THE ATTENDANT TEST PROCEDURES FOUND IN APPENDIX J
27 OF THE E.P.A. DOCUMENT, "TECHNICAL GUIDANCE - STAGE II

1 VAPOR-RECOVERY SYSTEMS FOR CONTROL OF VEHICLE REFUELING EMISSIONS
2 AT GASOLINE DISPENSING FACILITIES," VOL. II
3 (E.P.A.450/3-91-022B), NOVEMBER 1991.

4 (3) TESTING MAY BE CONDUCTED BY THE DEPARTMENT OR BY AN
5 INSTALLATION OR TESTING COMPANY THAT IS REGISTERED WITH AND MEETS
6 THE MINIMUM CRITERIA ESTABLISHED BY THE DEPARTMENT FOR CONDUCTING
7 SUCH TESTS. WHEN A PERSON OTHER THAN THE DEPARTMENT CONDUCTS THE
8 INITIAL TESTING, BOTH OF THE FOLLOWING APPLY:

9 (A) THE TEST RESULTS SHALL BE SUBMITTED TO THE DEPARTMENT
10 WITHIN 30 DAYS OF THE TESTING.

11 (B) IF A DEPARTMENT INSPECTION CONDUCTED WITHIN 30 DAYS OF
12 THE NOTIFICATION OF THE RESULTS OF INITIAL TESTING REVEALS THAT
13 THE VAPOR-RECOVERY SYSTEM FAILS TO MEET THE COMPLIANCE TESTING
14 REQUIREMENTS OF THIS SECTION, THE INSPECTION SHALL BE CONSIDERED
15 A REINSPECTION ACCORDING TO SECTION 9I(5) (A) AND A REINSPECTION
16 FEE SHALL BE CHARGED. HOWEVER, IF THE OPERATOR NOTIFIES THE
17 DEPARTMENT AT LEAST 10 BUSINESS DAYS IN ADVANCE OF WHEN INITIAL
18 TESTING WILL BE CONDUCTED AND WHAT PERSON WILL CONDUCT THE TEST-
19 ING, THEN A REINSPECTION FEE WILL NOT BE CHARGED UNDER THIS
20 SUBDIVISION.

21 (4) THE DIRECTOR SHALL PROMULGATE RULES FOR THE VOLUNTARY
22 REGISTRATION OF SERVICE PERSONNEL AND SERVICE AGENCIES INVOLVED
23 WITH VAPOR-RECOVERY SYSTEMS AND FOR MINIMUM REQUIREMENTS TO BE
24 REGISTERED TO CONDUCT CERTIFICATION TESTING AS SPECIFIED IN THIS
25 SECTION.

26 (5) SUBSEQUENT COMPLIANCE TESTING OF THE VAPOR-RECOVERY
27 SYSTEM AS REQUIRED UNDER SECTION 9D(8) SHALL BE PERFORMED AT

1 LEAST EVERY 5 YEARS OR UPON MAJOR SYSTEM REPLACEMENT OR
2 MODIFICATION, WHICHEVER OCCURS FIRST. FUNCTIONAL TESTS SHALL
3 ALSO BE PERFORMED UPON REQUEST BY THE DEPARTMENT. SUBSEQUENT
4 COMPLIANCE TESTING SHALL INCLUDE ALL FUNCTIONAL TESTS THAT WERE
5 REQUIRED FOR THE INITIAL SYSTEM DURING THE INITIAL COMPLIANCE
6 TESTING UNDER SECTION 9C. A MAJOR SYSTEM MODIFICATION IS CONSID-
7 ERED TO BE REPLACING, REPAIRING, OR UPGRADING 75% OR MORE OF A
8 DISPENSING FACILITY'S VAPOR-RECOVERY SYSTEM.

9 SEC. 9G. (1) AN OPERATOR SHALL MAINTAIN ACCURATE RECORDS OF
10 ALL OF THE FOLLOWING AT THE DISPENSING FACILITY LOCATION:

11 (A) ALL CURRENT LICENSES AND PERMITS REQUIRED TO OPERATE THE
12 DISPENSING FACILITY.

13 (B) CURRENT PROOF OF ATTENDANCE AND COMPLETION OF THE TRAIN-
14 ING SPECIFIED IN SECTION 9D(9).

15 (C) THE LOCATION, INCLUDING THE CONTACT PERSON'S NAME,
16 ADDRESS, AND TELEPHONE NUMBER, OF THE RECORDS REQUIRED UNDER THIS
17 ACT, BUT WHICH ARE NOT MAINTAINED AT THE DISPENSING FACILITY
18 LOCATION.

19 (2) AN OPERATOR SHALL MAINTAIN ACCURATE RECORDS OF BOTH OF
20 THE FOLLOWING FOR 3 YEARS:

21 (A) INSTALLATION AND COMPLIANCE TESTING RESULTS REQUIRED
22 UNDER SECTION 9F.

23 (B) MAINTENANCE RECORDS ON FORMS APPROVED BY THE
24 DEPARTMENT.

25 (3) THE RECORDS REQUIRED BY SUBSECTION (2) SHALL BE MAIN-
26 TAINED FOR 1 YEAR AT THE DISPENSING FACILITY LOCATION. AFTER

1 THIS TIME THESE RECORDS MAY BE MAINTAINED AT ANOTHER BUSINESS
2 LOCATION.

3 (4) RECORDS REQUIRED UNDER THIS ACT AND MAINTAINED AT THE
4 DISPENSING FACILITY LOCATION SHALL BE MADE AVAILABLE TO THE
5 DIRECTOR UPON REQUEST DURING NORMAL BUSINESS HOURS. IF RECORDS
6 REQUIRED UNDER THIS SECTION ARE NOT MAINTAINED AT THE DISPENSING
7 FACILITY LOCATION, THE RECORDS SHALL BE PROVIDED TO THE DIRECTOR
8 WITHIN 72 HOURS OF A REQUEST.

9 SEC. 9H. (1) TO IMPLEMENT THIS SECTION AND SECTIONS 9A TO
10 9G, THE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

11 (A) DEVELOP AND CONDUCT TRAINING FOR DEPARTMENT INSPECTORS
12 TO PROVIDE KNOWLEDGE AND PROFICIENCY ON ALL VAPOR-RECOVERY PRO-
13 GRAM REQUIREMENTS AND PROCEDURES.

14 (B) PREPARE INFORMATION ON THE PURPOSES AND BENEFITS OF
15 VAPOR-RECOVERY CONTROLS AND DISTRIBUTE THIS INFORMATION TO REGU-
16 LATED FACILITIES.

17 (C) PREPARE FOR THE GENERAL PUBLIC INFORMATION ON THE BENE-
18 FITS AND PURPOSE OF THE VAPOR-RECOVERY PROGRAM AND THE PROPER USE
19 OF THE EQUIPMENT.

20 (D) THE DIRECTOR SHALL DESIGN A UNIFORM MEANS OF PROVIDING
21 THE NOTICE REQUIRED BY SECTION 9D(6). THE NOTICE SHALL BE
22 DESIGNED IN SUCH A MANNER THAT THE CONSUMER CAN READILY UNDER-
23 STAND THE BENEFITS AND OPERATION OF A VAPOR-RECOVERY SYSTEM.

24 (E) CONDUCT A MINIMUM OF 1 COMPLIANCE INSPECTION PER YEAR
25 PER DISPENSING FACILITY, WITH MANDATORY REINSPECTION OF DISPENS-
26 ING FACILITIES THAT ARE FOUND TO BE IN VIOLATION OF THIS ACT OR
27 RULES PROMULGATED UNDER THIS ACT. A COMPLIANCE INSPECTION

1 CONSISTS OF THE INSPECTION OF THE RECORDS REQUIRED IN SECTION 9G,
2 INSPECTION OF FACILITY EQUIPMENT AS REQUIRED IN SECTION 9C, AND
3 FUNCTIONAL TESTING OF THE EQUIPMENT.

4 (F) MONITOR THE COMPLIANCE OF THE REGULATED FACILITIES WITH
5 THIS ACT THROUGH DATA COLLECTION, INCLUDING APPLICATIONS AND
6 REQUIRED DOCUMENTS.

7 (G) INVESTIGATE COMPLAINTS AND INITIATE AND CONDUCT OTHER
8 INVESTIGATIONS ON POSSIBLE VIOLATIONS OF THIS ACT.

9 (2) IF THE DIRECTOR FINDS A DEFECT IN A VAPOR-RECOVERY
10 SYSTEM, THE DIRECTOR SHALL REJECT OR CONDEMN AND MARK THE EQUIP-
11 MENT AS "REJECTED" OR "CONDEMNED". EQUIPMENT THAT IS REJECTED OR
12 CONDEMNED AND ORDERED CORRECTED OR DISPOSED OF SHALL REMAIN UNDER
13 THE CONTROL OF THE DIRECTOR UNTIL SUITABLE REPAIR OR DISPOSITION
14 HAS BEEN MADE UNDER THIS SECTION. THE OPERATOR OF THE REJECTED
15 OR CONDEMNED EQUIPMENT SHALL CAUSE IT TO BE MADE CORRECT WITHIN
16 THE SPECIFIED TIME PERIOD AUTHORIZED BY THE DIRECTOR, OR MAY DIS-
17 POSE OF THE EQUIPMENT IN A MANNER SPECIFIED BY THE DIRECTOR.
18 EQUIPMENT THAT HAS BEEN REJECTED OR CONDEMNED AND ORDERED COR-
19 RECTED OR DISPOSED OF MAY BE CONFISCATED AND MAY BE DESTROYED BY
20 THE DIRECTOR IF NOT CORRECTED AS REQUIRED BY, OR IF DISPOSED OF
21 CONTRARY TO THE REQUIREMENTS OF, THIS SECTION.

22 (3) IF NECESSARY FOR THE ENFORCEMENT OF THIS ACT OR RULES
23 PROMULGATED UNDER THIS ACT, THE DIRECTOR MAY DO ALL OF THE
24 FOLLOWING:

25 (A) ISSUE STOP-USE ORDERS, HOLD ORDERS, OR REMOVAL ORDERS
26 FOR VAPOR-RECOVERY AND GASOLINE-DISPENSING EQUIPMENT. A PERSON
27 SHALL NOT USE, REMOVE FROM THE PREMISES SPECIFIED, OR FAIL TO

1 REMOVE FROM THE PREMISES SPECIFIED ANY VAPOR-RECOVERY OR
2 GASOLINE-DISPENSING EQUIPMENT CONTRARY TO ANY ORDER ISSUED PURSU-
3 ANT TO THIS SECTION.

4 (B) SEIZE FOR USE AS EVIDENCE WITHOUT FORMAL WARRANT, ANY
5 INCORRECT OR UNAPPROVED VAPOR-RECOVERY SYSTEM OR DISPENSING
6 EQUIPMENT FOUND TO BE USED OR EXPOSED FOR USE IN VIOLATION OF
7 THIS ACT OR RULES PROMULGATED UNDER THIS ACT.

8 (4) WITH RESPECT TO ENFORCEMENT OF THIS ACT, THE DIRECTOR
9 SHALL HAVE THE POWER OF A SHERIFF.

10 (5) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT JURISDIC-
11 TION FOR A TEMPORARY RESTRAINING ORDER OR PERMANENT INJUNCTION
12 RESTRAINING A PERSON FROM VIOLATING THIS ACT OR A RULE PROMUL-
13 GATED UNDER THIS ACT.

14 SEC. 9I. (1) A DISPENSING FACILITY CONSTRUCTED AFTER
15 NOVEMBER 15, 1990, SHALL OBTAIN A DISPENSING PERMIT FROM THE
16 DEPARTMENT WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THIS
17 SECTION. A DISPENSING FACILITY DISPENSING 100,000 GALLONS OR
18 MORE OF GASOLINE A MONTH SHALL OBTAIN A DISPENSING PERMIT FROM
19 THE DEPARTMENT WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS
20 SECTION. A DISPENSING FACILITY DISPENSING LESS THAN 100,000 GAL-
21 LONS OF GASOLINE A MONTH SHALL OBTAIN A DISPENSING PERMIT FROM
22 THE DEPARTMENT WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS
23 SECTION. THE FEE FOR A DISPENSING PERMIT IS \$25.00 FOR EACH YEAR
24 OR PORTION OF A YEAR.

25 (2) BEFORE A DISPENSING PERMIT IS ISSUED, A DISPENSING
26 FACILITY SHALL INSTALL AN APPROVED VAPOR-RECOVERY SYSTEM AND, IN
27 ADDITION TO THE FEE FOR THE DISPENSING PERMIT, SHALL PAY A

1 REGISTRATION FEE FOR EACH DISPENSING UNIT LOCATED AT THE
2 DISPENSING FACILITY. A PERMIT SHALL NOT BE ISSUED OR RENEWED
3 UNTIL ALL FEES ARE PAID. A HEARING SHALL NOT BE REQUIRED PRIOR
4 TO THE REFUSAL TO ISSUE OR RENEW A PERMIT UNDER THIS SUBSECTION.

5 (3) A DISPENSING PERMIT EXPIRES ANNUALLY ON NOVEMBER 30
6 UNLESS RENEWED BEFORE DECEMBER 1 OF EACH YEAR OR UNLESS SUS-
7 PENDED, DENIED, OR REVOKED BY THE DEPARTMENT. APPLICATION FOR A
8 DISPENSING PERMIT SHALL BE MADE ON A FORM FURNISHED BY THE
9 DEPARTMENT. THE COMPLETED FORM SHALL CONTAIN THE INFORMATION
10 REQUESTED BY THE DEPARTMENT AND SHALL BE ACCOMPANIED BY THE FEES
11 SPECIFIED.

12 (4) THE DIRECTOR MAY SUSPEND, DENY, OR REVOKE A DISPENSING
13 PERMIT ISSUED PURSUANT TO THIS ACT FOR FAILURE TO PAY THE FEE
14 REQUIRED BY SUBSECTION (1) OR (2), OR FOR FAILURE TO COMPLY WITH
15 THE REQUIREMENTS OF SECTIONS 9A TO 12 OF THIS ACT.

16 (5) A FEE SHALL BE CHARGED TO THE OPERATOR OF VAPOR-RECOVERY
17 OR GASOLINE-DISPENSING EQUIPMENT FOR ITS INSPECTION IF ANY OF THE
18 FOLLOWING OCCUR:

19 (A) THE INSPECTION IS A REINSPECTION OF EQUIPMENT THAT HAS
20 ALREADY BEEN TESTED AND FOUND TO CONTAIN A SUBSTANTIAL DEFECT AS
21 DEFINED UNDER SECTION 9C.

22 (B) THE INSPECTION IS PERFORMED AT THE REQUEST OF THE
23 OPERATOR.

24 (6) THE DEPARTMENT SHALL FIX THE FEES AND EXPENSES FOR SPE-
25 CIAL SERVICES, INCLUDING THE FEE FOR AN OPERATOR REQUESTED
26 INSPECTION OR REINSPECTION, FOR REGISTRATIONS, FOR TRAINING
27 COURSES, AND FOR ACCREDITATION OF A TRAINER, TO PROVIDE THAT EACH

1 FEE IS SUFFICIENT TO COVER THE COST OF AN OPERATOR REQUESTED
2 INSPECTION, REINSPECTION, REGISTRATION, TRAINING, OR TRAINER
3 ACCREDITATION, RESPECTIVELY, AND THAT THE AGGREGATE OF ALL FEES
4 COLLECTED IS SUFFICIENT TO PAY FOR ALL SALARIES AND OTHER
5 EXPENSES CONNECTED WITH THE ACTIVITY. THE DEPARTMENT SHALL
6 REVIEW AND ADJUST THE FEES AT THE END OF EACH YEAR AND HAVE ALL
7 FEES APPROVED BY THE DIRECTOR BEFORE THEY ARE ADOPTED. FEES COL-
8 LECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE GASOLINE
9 INSPECTION AND TESTING FUND AND RESERVED FOR CONDUCTING THE
10 VAPOR-RECOVERY PROGRAM.

11 SEC. 11. (1) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF
12 HIS OR HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF
13 ANOTHER VIOLATES THIS ACT OR A RULE PROMULGATED UNDER THIS ACT IS
14 SUBJECT TO AN ADMINISTRATIVE FINE. THE DIRECTOR IS AUTHORIZED TO
15 CONDUCT A HEARING CONDUCTED PURSUANT TO THE ADMINISTRATIVE PROCE-
16 DURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING
17 SECTIONS 24.271 TO 24.328 OF THE MICHIGAN COMPILED LAWS, AND
18 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD AND UPON FINDING A
19 VIOLATION OF THIS ACT OR RULES PROMULGATED UNDER THIS ACT, THE
20 DIRECTOR MAY ASSESS AN ADMINISTRATIVE FINE:

21 (A) FOR A FIRST VIOLATION, NOT LESS THAN \$50.00 OR MORE THAN
22 \$100.00, PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT OF
23 ANY ECONOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

24 (B) FOR A SECOND VIOLATION WITHIN 2 YEARS OF THE FIRST VIO-
25 LATION, NOT LESS THAN \$100.00 OR MORE THAN \$250.00, PLUS ACTUAL
26 COSTS OF THE INVESTIGATION AND THE AMOUNT OF ANY ECONOMIC BENEFIT
27 ASSOCIATED WITH THE VIOLATION.

1 (C) FOR A THIRD VIOLATION WITHIN 2 YEARS FROM THE DATE OF
2 THE FIRST VIOLATION, NOT LESS THAN \$250.00 OR MORE THAN \$500.00,
3 PLUS ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT OF ANY ECO-
4 NOMIC BENEFIT ASSOCIATED WITH THE VIOLATION.

5 (2) A DECISION OF THE DIRECTOR UNDER THIS SECTION IS SUBJECT
6 TO JUDICIAL REVIEW AS PROVIDED BY LAW.

7 (3) THE DIRECTOR SHALL ADVISE THE ATTORNEY GENERAL OF THE
8 FAILURE OF ANY PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER
9 THIS SECTION. THE ATTORNEY GENERAL SHALL BRING AN ACTION IN
10 COURT OF COMPETENT JURISDICTION TO RECOVER THE FINE.

11 (4) ANY ADMINISTRATIVE FINE, COSTS, AND THE RECOVERY OF ANY
12 ECONOMIC BENEFIT ASSOCIATED WITH A VIOLATION COLLECTED UNDER THIS
13 SECTION SHALL BE PAID TO THE STATE TREASURY AND DEPOSITED INTO
14 THE GASOLINE INSPECTION AND TESTING FUND.

15 SEC. 12. (1) A PERSON WHO INDIVIDUALLY, OF BY THE ACTION OF
16 HIS OR HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF
17 ANOTHER, PERFORMS ANY OF THE FOLLOWING IS GUILTY OF A MISDEMEANOR
18 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE
19 OF NOT LESS THAN \$1,000.00 OR MORE THAN \$2,000.00 OR BOTH:

20 (A) RENDERS LESS EFFECTIVE OR INOPERABLE ANY PART OF A
21 VAPOR-RECOVERY SYSTEM.

22 (B) MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICA-
23 TION IN ANY APPLICATION, REPORT, PLAN, OR OTHER DOCUMENT THAT IS
24 REQUIRED TO BE MAINTAINED UNDER THIS ACT OR RULES PROMULGATED
25 UNDER THIS ACT.

26 (C) FAILS TO DISCLOSE TO THE DEPARTMENT ANY KNOWLEDGE OR
27 INFORMATION RELATING TO OR OBSERVATION OF ANY MODIFICATION OF A

1 VAPOR-RECOVERY SYSTEM WHICH MAKES THE SYSTEM LESS EFFECTIVE OR
2 INOPERABLE, OR FALSIFICATION OF RECORDS REQUIRED TO BE MAINTAINED
3 UNDER THIS ACT OR RULES PROMULGATED UNDER THIS ACT.

4 (D) REMOVES A TAG, SEAL, OR MARK PLACED ON A DISPENSING
5 DEVICE BY THE DIRECTOR.

6 (E) VIOLATES THIS ACT OR A RULE PROMULGATED UNDER THIS ACT
7 FOR WHICH A SPECIFIC PENALTY IS NOT PRESCRIBED.

8 (2) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF HIS OR
9 HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF ANOTHER,
10 PERFORMS ANY OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR
11 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE
12 OF NOT LESS THAN \$2,000.00 OR MORE THAN \$5,000.00, OR BOTH:

13 (A) VIOLATES A PROHIBITED ACT LISTED IN THIS SECTION WITHIN
14 24 MONTHS OF ANOTHER VIOLATION OF THIS SECTION THAT RESULTS IN A
15 CONVICTION.

16 (B) IMPERSONATES IN ANY WAY THE DIRECTOR OR ANY DEPARTMENT
17 INSPECTOR.

18 (3) A PERSON WHO INDIVIDUALLY, OR BY THE ACTION OF HIS OR
19 HER AGENT OR EMPLOYEE, OR AS THE AGENT OR EMPLOYEE OF ANOTHER,
20 PERFORMS ANY OF THE FOLLOWING ACTS IS GUILTY OF A FELONY PUNISH-
21 ABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR A FINE OF NOT
22 LESS THAN \$5,000.00 OR MORE THAN \$10,000.00, OR BOTH:

23 (A) INTENTIONALLY COMMITS A PROHIBITED ACT UNDER THIS
24 SECTION.

25 (B) VIOLATES A PROHIBITED ACT LISTED IN THIS SECTION WITHIN
26 24 MONTHS OF 2 PREVIOUS VIOLATIONS OF THIS SECTION THAT RESULT IN
27 CONVICTIONS.

1 (4) IF A VIOLATION OF THIS SECTION RESULTS IN A CONVICTION,
2 THE COURT SHALL ASSESS AGAINST THE DEFENDANT THE COSTS OF THE
3 DEPARTMENT'S INVESTIGATION, AND THESE COSTS SHALL BE PAID TO THE
4 STATE TREASURY AND DEPOSITED IN THE GASOLINE INSPECTION AND TEST-
5 ING FUND TO BE USED FOR THE ENFORCEMENT OF THIS ACT.

6 SEC. 13. THE DIRECTOR MAY SUSPEND THE REQUIREMENTS OF
7 SECTIONS 9A THROUGH 9G AND SECTION 9I FOR ANY AREA OF THE STATE
8 THAT IS FORMALLY REDESIGNATED BY THE E.P.A. AS AN ATTAINMENT AREA
9 FOR OZONE IN ACCORDANCE WITH THE REQUIREMENTS OF THE E.P.A. AND
10 SECTION 107(d)(3)(D) OF PART A OF TITLE I OF THE CLEAN AIR ACT,
11 CHAPTER 360, 84 STAT. 1678, 42 U.S.C. 7407, IF THE REDESIGNATION
12 BY THE E.P.A. IDENTIFIES THE STAGE II VAPOR CONTROL PROGRAM AS
13 UNNECESSARY TO MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STAN-
14 DARDS FOR OZONE IN THE AFFECTED AREA.