



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

DMS NOTICE

D – 08 – 9

November 19, 2008

Discard: 10/31/2009

TO WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Unapproved devices used to dispense E85 Ethanol, “Biodiesel” and other Developmental Fuels

Division staff has found instances where unapproved or unsuitable devices are used to dispense ethanol (E85) and biodiesel blends.

Service Agents and marketers of alternative fuels should exercise due diligence when servicing or installing alternative fuel dispensers. Modern approvals are based on meter technology, environmental conditions, and the range of product properties over which the device has been verified. Very few retail motor fuel dispensers for conventional fuels (gasoline and diesel) are also type approved for E85 Ethanol or biodiesel.

To determine if a device is approved to dispense alternative fuel, Weights and Measures Officials and Service Agents must reference the NTEP Certificate of Conformance or CTEP Certificate of Approval. Verify the type approval existence and the application limitations contained in the certificate. Card readers, point of sale systems, nozzles, and interfaced equipment effecting accuracy must comply with associated regulations.

If you are unsure of a device’s approval status, suitability, compatibility, or limitations, please refer to our website at:

<http://www.cdfa.ca.gov/dms/programs/ctep/ctep.html>, or contact our office.

If a device is not approved for the intended application, the following steps should be taken:

- Do not permit the device to be used commercially.
- Notify the owner/operator and explain the need to use an approved device.

You may also want to refer to notices D-07-2 and D-03-3 on our website as an additional reference.

The Department has issued developmental engine fuel variances under section 13405 of the Business and Professions Code that permits the sale and use of experimental fuels which do not comply with established fuel quality standards and enable the

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development of new fuels. The holders of these variances must comply with all rules governing the sale of these fuels, including the need for approved devices. Some variance holders claim that devices used for "cooperatives" are not commercial and do not need an evaluation. There is no exemption in the Business and Professions Code for cooperatives. If the charge to a user varies according to the amount of fuel dispensed by the device, whether by gallons or as a percentage of a charge to a group, then it is commercial and must be type approved and suitable for its intended use.

Used and obsolete equipment may not be suitable, accurate, or approved to perform efficiently with alternative fuels and may be subject to enforcement action when placed in service.

If you have any questions, please contact your area specialist or Ronald Flores, Supervising Special Investigator, at (916) 229-3000 or via email rflores@cdfa.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Edmund E. Williams". The signature is cursive and fluid.

Edmund E. Williams
Director

Cc Kevin Masuhara, Director, County/State Liaison
Registered Service Agencies – Liquid Measuring Devices
Alternative Fuels Marketers