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BACK UP POWER REQUIREMENTS FOR SERVICE STATIONS

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You asked about state laws requiring service stations to have back up power sources to provide emergency power during a power outage.

SUMMARY

Florida and Louisiana appear to be the only states that require motor fuel facilities, including service stations, to be able to switch to an alternative energy source during a power outage.

Florida requires motor fuel (1) service stations near interstate highways or evacuation routes, (2) terminals and (3) wholesalers to have transfer switches and appropriate wiring to transfer the electrical load from a utility to an alternate generated power sources in the event of a power failure. It requires corporations or entities with at least 10 service stations in a county to have access to at least one portable generator.

Like Florida, Louisiana requires certain service stations to be wired with a transfer switch and capable of switching to an alternate generated power source in the event of a power outage. But Louisiana's law applies only to new or completely rebuilt service stations in the southern portion of the state.

California is considering a different approach to the problem. That state is considering a bill that would grant a tax credit of up to \$2,500 to a service station that buys and installs an emergency standby generator. A Washington law that provided excise tax credits for alternative power generation devices for gas stations expired earlier this year.

We have attached copies of the [Florida](#) and [Louisiana](#) laws and the [California](#) bill.

FLORIDA ALTERNATIVE POWER SOURCE LAW

Background

Florida enacted its law in 2006 after two years of severe hurricane damage. In October 2005 Hurricane Wilma caused widespread power outages and forced hundreds of gas stations to close. According to a legislative staff analysis of the bill that became the law, service plazas on a portion of the Florida Turnpike experienced traffic backups of more than five miles, with motorists waiting in line between three and five hours to buy gasoline.

Alternative Power Source Requirements

The Florida legislation (Fla. Stat. § 526.143) took effect June 1, 2007. It imposes different requirements for different types of motor fuel facilities.

It requires motor fuel terminals and wholesalers that sell motor fuel in Florida and certain service stations to have appropriate wiring, including a transfer switch, to enable them to access an alternate generated power source during a power outage, but does not require them to have an on-site generator. It does require corporations or entities with at least 10 gasoline stations in one county to have access to a portable generator. A first violation of the law is a second-degree misdemeanor; subsequent offenses are first-degree misdemeanors.

Service Stations. The law required, by June 1, 2007, service stations within one-half mile of an interstate highway or federally- or state-designated evacuation route to have a transfer switch and wiring able to use an alternative energy source to operate all fuel pumps, dispensing equipment, safety systems (emergency fuel shut-off systems and fire alarms), and payment-acceptance equipment. The law applies to service stations with at least

- 16 pumps in counties with at least 300,000 people;
- 12 pumps in counties with between 100,000 and 300,000 people; and
- Eight pumps in counties with fewer than 100,000 people.

A certified electrical contractor must install the necessary wiring and transfer switches. In addition, each service station must keep a (1) record of the installation on site or at its corporate headquarters and (2) written statement on the periodic testing and ensured operational capacity of the equipment. It must provide these documents to the state Division of Emergency Management or the director of the county emergency management agency at their request.

The law imposes the same wiring, switch, operational, and record-keeping requirements on newly-built or substantially renovated service stations that obtained a certificate of occupancy on or after July 1, 2006. It applies to all these service stations, regardless of location or size. Local building inspectors must check for this equipment and operational capability before issuing a certificate of occupancy. Under the law, substantial renovation means an increase of at least 50% in the service station's assessed value.

The law applies to any self-service, full-service, or combination service station, regardless of whether it is located on the grounds of, or is owned by, a retail business not engaged in the business of selling motor fuel.

Terminals and Wholesalers. Motor fuel terminals, which store, handle, or transfer motor fuel, and motor fuel wholesalers, which buy motor fuel at a terminal and supply it to retail outlets, must be able to operate their fuel distribution systems on an alternate generated power source for at least 72 hours. The alternate power source must be ready to operate within 36 hours of a major disaster. Under Florida law, a "major disaster" is one that will probably exceed local capabilities and require state and federal assistance (Fla. Stat. § 252.34 (1) (b)). The terminals and wholesalers must maintain the same documents as the service stations and make them available to the same officials.

Entities with at Least 10 outlets in One County. A corporation or other entity that owns at least 10 service stations in a single county must maintain at least one portable generator for every 10 service stations. Entities that own more than 10 service stations, or a multiple of 10 service stations and an additional six stations must also have an additional generator for those additional stations (for example, a service

station owner with 36 stations in one county would need to have four portable generators, one for every 10 stations, plus one for the additional six stations). Each generator must be stored in Florida, or, if kept in another state, within 250 miles of Florida, and available for use within 24 hours after a disaster.

Also, a corporation or other entity that owns at least 10 service stations in a single “domestic security region” (one of seven geographic areas designated by the state) and owns none outside the region must have a written agreement with at least one similarly situated entity to provide for the use of portable generators located in the state but outside the affected region. The agreement must guarantee the availability of the generators to the affected location within 24 hours after a disaster.

Exemptions. The law exempts (1) automobile dealers; (2) motor vehicle fleet operators and those who sell fuel exclusively to these fleets, and (3) service stations that have written agreements with hospitals in which the hospital agrees to supply alternative energy to the station to operate its fuel pumps during a power outage.

Compliance

According to Matthew Curran, chief of the Petroleum Inspection Bureau of Florida’s Department of Agriculture and Consumer Services, all of the state’s motor fuel terminals and wholesalers, all of the about 1,000 service stations within one-half mile of the designated routes, and all but one of the between 200 and 300 new or substantially renovated service stations are complying with the law.

LOUISIANA ALTERNATIVE ENERGY SOURCE LAW

Louisiana imposes essentially the same wiring, installation, and reporting as requirements as Florida on full-service, self-service, and combination stations, including those located on the property of, or owned by, retail businesses not in the business of selling motor fuel. It exempts automobile dealers, vehicle fleet operators, and those who sell fuel exclusively to these fleets. But the Louisiana law, (Louisiana Rev. Stat. § 2195.12) affects only newly built or completely rebuilt service stations for which a certificate of occupancy was issued on or after October 1, 2009 in the parishes of Beauregard, Allen, Evangeline, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa or Washington, and any parish south of them.

CALIFORNIA STANDBY GENERATOR BILL

AB 1339, proposed in the California legislature in 2011, would allow service station owners a tax credit of up to half the cost of buying and installing an emergency standby generator, up to \$2,500 per generator. The generator must be capable of generating at least 30 kilowatts. Only taxpayers with worldwide gross receipts of less than \$1 million would be eligible for the credit, which would run from January 1, 2012 through December 31, 2016.

The bill also provides that the tax credit be limited to energy efficient or low-emission emergency generators if either the California Air Resources Board or Energy Resources Conservation and Development Commission sets certification standards for these generators.

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