April 28, 2006

COMPLIANCE ADVISORY

GASOLINE DISPENSING FACILITIES’ 
VAPOR RECOVERY SYSTEMS

COMPLIANCE PROCEDURES

State law and San Diego County Air Pollution Control District (District) rules require that gasoline dispensing facilities be equipped with Phase I (for bulk gasoline deliveries) and Phase II (for gasoline dispensing to vehicles) vapor recovery systems that have been certified by the California Air Resources Board (ARB). Facility operators must properly install, inspect, test, and maintain their vapor recovery systems.

Gasoline vapor emissions, if not controlled, can be a significant source of smog-forming and toxic air contaminants. Approximately 1.3 billion gallons of gasoline are dispensed annually in San Diego County. Without effective gasoline vapor recovery systems, nearly 10,000 tons of additional gasoline vapors would be emitted in our air annually. The success of the program depends on maintaining vapor recovery systems in good working order.

The District enforces gasoline vapor recovery requirements by:

- Issuing construction permits (Authorities to Construct) for new and modified gasoline dispensing facilities;
- Requiring new vapor recovery system installations to be tested;
- Issuing operating permits with conditions requiring owners/operators inspect and maintain their vapor recovery equipment, and periodically (typically annually) test for proper performance;
- Inspecting facilities, witnessing contractor testing, and conducting District tests; and
- Issuing compliance documents when uncorrected defects are found, maintenance is not being performed, records are missing, or periodic testing is not being done.

Most Frequent Compliance Issues
The District has been reviewing the nature and causes of compliance problems found at gasoline dispensing facilities over the past year. While not all-inclusive, the following are the most frequent problems that result in a violation.
• **Not doing the required annual performance tests or conducting the tests late**
The District requires that the testing be conducted within the 45 days before the annual permit expiration date. Testing is usually done by a test contractor hired by the facility owner.

• **For new construction or modifications, not providing a Construction Completion Notice, not scheduling initial tests with the District within 30 days of construction, and not conducting the initial performance tests within 60 days after construction was completed**

• **Not providing notice to the District before conducting required annual tests**
The District requires notice at least 15 calendar days before a test to allow the District to witness testing.

• **Failing a performance test and not making timely repairs and retesting**

• **Failing a District conducted test**
The most common problems we find are nozzle dispensing flow rate, vapor hose liquid removal devices, vapor collection rates for vacuum-assist type systems, pressure-vacuum valve cracking pressure and leaks, rotational torque on bulk delivery tank fittings.

• **Not properly maintaining vapor recovery components**
The most common problems we find are:
   - Gasoline dispensing nozzle flow rates too high or too low. Either affects emission control equipment performance.
   - Torn, cut or missing nozzle faceplates or bellows. Cuts or tears in vapor hoses.
   - Inoperative nozzle shutoff mechanisms.
   - Standing gasoline in Phase I spill containment boxes.
   - Significant liquid in a vapor hose (this blocks vapor collection) or failing a liquid removal test (applies to only certain hose arrangements).

• **Not recording required daily, weekly, monthly and annual inspections and maintenance as specified by the permit**

The District also occasionally finds uncertified components, certified systems installed with the wrong components, installations without current or correct permits, improperly conducted performance tests, missing inspection and maintenance records, and installations without required grounding points (a safety concern).

**What Operators Can Do to Reduce Non-Compliance**
The following are steps a facility operator can take to reduce the frequency of non-compliance.

• **READ YOUR DISTRICT PERMIT - If you are constructing a new or modified facility, make sure to read your District Authority to Construct.** The permit conditions describe the requirements you must meet for inspecting, maintaining, and testing vapor recovery equipment, notifying the District, and keeping records.
• **Make sure you and your employees know how to inspect and check your vapor recovery equipment.** If you aren’t sure, talk to your equipment supplier or the District about training.

• **Take advantage of services the District provides.** The District can provide training to a company, groups, or organizations to help operators understand what to look for. If you or your operators need help understanding what to do to stay in compliance or have a question about a particular compliance issue, call the District (858-586-2650). Either our Small Business Assistance Coordinator or a member of our Vapor Recovery Program staff, or both, will do their best to assist you. Visit the District’s web site at http://www.sdapcd.org for inspection recordkeeping forms, test and notification forms, permit application forms, and other compliance assistance documents. Information regarding vapor recovery and related timelines can also be obtained on ARB’s web page at http://www.arb.ca.gov/vapor/vapor.htm.

• **Make sure you and your operators do the required inspections AND keep a record of inspections.** Certain items should be checked daily, others weekly or monthly, a few just once a year. Although you are not required to use District forms for your records, we have provided example forms on our website that you can download and use.

• **If you find a defective system or component, take it out of service until it can be repaired or replaced.** Record when you found the defect and when the component was repaired or replaced. The District will not cite you for discovering and correcting a defective component. However, the District will cite a facility if a defective component is found that has not been removed from use. If you are not sure whether a component is defective, call the District. Many defects are listed on ARB’s website at http://www.arb.ca.gov/vapor/title17/title17.htm. Some defects specific to a vapor recovery system are also identified in the ARB Executive Order certifying that system.

• **Annual Performance Testing** When you hire a testing contractor to do the required annual testing (a few facilities are required to do quarterly testing), make sure that the contractor notifies the District at least 15 days prior to testing, and that the testing will get done within the 45 days prior to your permit expiration date. Keep track of these dates – many violations are for failing to provide notification and failing to test within the allowable time period. Contact the test contractor just prior to the test to make sure that the facility is ready. Many times, tests are cancelled because a bulk gasoline delivery was made within 8 hours prior to the test or there is too little vapor space in the storage tanks. Make sure the test contractor provides you with a copy of the test results. Keep it on site. If testing will be delayed, make sure the District is informed.

**Note:** Pre-testing is used by some facilities to find and correct system performance problems before conducting tests required by the District. While the District does not require pre-tests, we encourage facilities to use pre-testing to improve the performance of their vapor recovery systems.
What Operators Must Do If They Receive a Compliance Document

The reality is that most gasoline dispensing facility owners or operators are likely to receive a District compliance document at some time. Vapor control systems and components are complex, requirements are numerous, and customer use of a critical component of the systems makes them susceptible to damage, leaks, tears, etc. The District can issue a variety of compliance documents, depending on the nature of a compliance issue. Documents can range from a Notice to Comply (a reminder, no penalties) to a Notice of Violation (the most serious, may entail significant penalties). When you receive a compliance document, make sure the District inspector explains why the document was issued, and what you need to do next.

Foremost is to take immediate steps to correct the problem. Depending on the problem, this could be to call a contractor for repairs or testing, taking a nozzle or dispenser out of service until it can be repaired, or providing additional training or supervision to employees to ensure self-inspections are done and recorded.

There are additional steps you must take depending on the type of Compliance Document you receive:

**Notice to Comply** This document is typically issued for first-time minor violations that result in no or very small emissions. (If a similar violation recurs at the facility within the next three years, a Notice of Violation can result.) District Rule 6 prescribes the requirements for Notices to Comply and for facilities that receive one. Rule 6 also lists certain types of vapor recovery minor violations.

If you receive a Notice to Comply, it will specify a date by which the violation must be corrected. You must correct the violation by that date. If you need additional time, call the District. Up to 30 days may be allowed, if warranted, to correct a minor violation. **Within 5 working days** of correcting the violation, you must sign the Notice to Comply attesting to the correction of all cited items, and return the Notice to Comply form to the District. The District may re-inspect the facility at any time to verify compliance.

**Out-of-Order Tag** State regulations (Title 17 of the Public Resources Code) specify certain types of vapor recovery system and component deficiencies as defects. A defect can significantly impair vapor recovery effectiveness. When the District finds a defect, the inspector will tag the affected component(s) Out-of-Order. It is a violation to operate defective components. In addition, the District may also issue a Notice of Violation (discussed below). The defective component(s) cannot be used until repaired or replaced with appropriate certified components. Once the component(s) are repaired or replaced and the defect is corrected (for some defects testing is required to verify that a defect has been corrected), the component(s) can be placed back in service. You must notify the District (phone, fax, e-mail, letter, or in person) that the defect has been corrected.

**7-Day Notice to Repair** When the District finds that a component is not in good working order (e.g. a cut or tear in a nozzle faceplate that does not extend for more than ¼ of the circumference) but it has not reached the point of a defect, the inspector will issue a 7-Day Notice to Repair. The component may continue to be used (but not if the problem becomes a defect) but must be
repaired or replaced within the 7 days specified in the notice. You must call the District at the number listed on the notice to report the repair.

**Corrective Action Report**  A Corrective Action Report is used when an inspector finds a violation but the violation has been corrected (e.g. annual performance tests were successfully completed but outside the 45-day window allowed). A written response to the document is not required but if a future inspection finds the same problem more serious enforcement actions may result.

**Notice of Violation (see enclosed fact sheet)**  The problem causing the violation must be corrected as soon as possible. Continuing to operate out of compliance can result in additional violations. Actions should be taken to prevent similar violations in the future. This might include conducting additional equipment self-inspections, providing additional training, or conducting pre-tests prior to District-required performance tests.

Within 10 days of receiving the Notice of Violation you must respond in writing describing what actions have been taken to correct the violation, what actions will be taken to prevent similar violations in the future, and any additional information that is relevant to the cause of the violation and efforts made to prevent or mitigate the effects of the violation. This information will be considered by the District in establishing the appropriate penalty, if any.

**Appeals, Variances**
If you received a Notice of Violation, make sure to send a written response to the District within ten days of receiving the notice, even if you corrected the problem or disagree that a violation occurred or have already spoken to a District representative. If you disagree that a violation has occurred you should contact the District’s Compliance Division at (858) 586-2650 and speak with the inspector’s supervisor or the Division Chief.

If you cannot correct a violation immediately, and the violation is not the result of an ARB-identified defect, and it would be unreasonable to stop operating until the non-compliance is corrected, you may petition the Air Pollution Control District Hearing Board for a variance to allow temporary operation until repairs can be completed. The Hearing Board consists of community members appointed by the Board of Supervisors who can consider a facility’s specific circumstances and issue temporary variances from requirements, if warranted. You will need to fill out a variance petition form, provide information on why you cannot comply immediately, pay an administrative fee, and appear before the Hearing Board in a public hearing to present the request and answer questions. More detailed information about the variance process can be obtained from the District by calling (858) 586-2657, or from the District’s website at http://www.sdapcd.org/comply/hboard/hearing.html.

If you have questions regarding vapor recovery requirements, please call Randy Smith at (858) 586-2677. For questions about permitting, please call Mahiany Ponte at (858) 586-2725.