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**PHASE II ENHANCED VAPOR RECOVERY (EVR) UPGRADE
PENALTY POLICY
EFFECTIVE APRIL 1, 2009 – JUNE 1, 2009**

Policy Statement: The California Air Resources Board and the District require that as of April 1, 2009, gasoline dispensing facilities (GDFs) must operate with an ARB-certified Phase II EVR system in place. GDFs are subject to monetary penalties for violating District regulations pertaining to the Phase II EVR upgrade.

The penalty amounts are based on whether the GDF is a **large facility** (dispensing more than 1.8 million gallons of gasoline in the previous twelve-month period), a **medium facility** (dispensing 601,000 to 1.8 million gallons of gasoline) or a **small facility** (dispensing 600,000 gallons or less of gasoline). Currently, the penalty amounts are as set forth below. **The penalty amounts are subject to increases after June 1, 2009, based on facilities' delays in commencing the upgrade work.**

Notices of Violation:

- **NOV:** Failure to obtain a District authority to construct the Phase II EVR System (but work completed as of April 1, 2009) – District Regulations 2-1-301, 302:

Large facility: \$800
Medium facility: \$600
Small facility: \$400

- **NOV:** Operating as of April 1, 2009 without the Phase II EVR System – District Regulation 8-7-302.1:

Large facility: Maximum penalty - \$2,500
Medium facility: Maximum penalty - \$1,500
Small facility: Maximum penalty - \$1,000

For this NOV, the District will consider factors that may reduce the maximum penalty amount on a case-by-case basis. One of the key factors will be the facility owner's diligence prior to April 1, 2009 to meet the deadline, e.g. having submitted or obtained an authority to construct, hired a contractor, or having ordered or obtained the upgrade equipment.

- **NOV:** Failure to pass required source tests for the installed Phase II EVR upgrade – District Regulations 8-7-302; 2-1-301/302:

Large facility: \$1,000
Medium facility: \$750
Small facility: \$500

Compliance and Settlement Agreements: The District encourages facility owners who will not be able to complete the upgrade work by April 1, 2009 to contact the District about entering into a compliance agreement with the District that will enable the facility to operate while completing the upgrade work on an expedited schedule and to pass the necessary source tests. The compliance agreement will include penalties for not complying with the requirements of the agreement, as well as penalties for violations of District regulations, which are described above.

- **NOV:** Operating as of April 1, 2009 without the Phase II EVR System (see above).
- **NOV:** Failure to pass required source tests for the installed Phase II EVR upgrade (see above).
- **Breach of Agreement:** Failure to meet the agreement's extended deadline to install the upgrade (including installation of in-station diagnostic equipment for large facilities):

Large facility:	\$4,000
Medium facility:	\$2,000
Small facility:	\$1,000

If, 60 days later, the facility has failed to meet the extended deadline, the District will assess daily penalties until the work is completed:

Large facility:	\$65.00 per day
Medium facility:	\$45.00 per day
Small facility:	\$35.00 per day

- **Breach of Agreement:** Failure to submit monthly progress reports on the status of the upgrade work:

Large facility:	\$65.00 for each late or missed report
Medium facility:	\$45.00 for each late or missed report
Small facility:	\$35.00 for each late or missed report