

 <p>air pollution control district SANTA BARBARA COUNTY</p>	<b>Case No / Date</b>	<b>2023-05-N</b>	<b>02/20/2024</b>
	<b>Petitioner</b>	<b>United States Space Force</b>	
	<b>Permit #</b>	<b>PT 70/PTO 13968-R3</b>	
	<b>Date Rec'd</b>	<b>12/06/2023</b>	
	<b>Time Rec'd</b>	<b>1201 hours</b>	
	<b>FOR OFFICIAL USE ONLY</b>		

**BEFORE THE HEARING BOARD  
OF THE SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT**

In the Matter of the Application of )  
United States Space Force for a 90- )  
Day Variance from District Rules )  
316.G.1 and 206, Part 70 Permit to )  
Operate 13968-R3, Condition 9.C.9.e. )  
)

**H.B. Case No. 2023-05-N**

**VARIANCE FINDINGS**

**AND ORDER**

United States Space Force (Petitioner) filed a Petition for 90-Day Variance on December 6, 2023. A hearing of the above-entitled matter was held on February 20, 2024, in accordance with Health and Safety Code Section 40808. Kimberlee Harding and Andy Edwards represented the Petitioner, Aimee Long represented the Santa Barbara County Air Pollution Control District (District), and Terence Dressler represented the Hearing Board for this 90-Day Variance Hearing.

This matter having been fully presented and duly considered, the Hearing Board makes the following findings and gives the following reasons for its decision.

**HEARING**

1. Notice of the Hearing was duly given in the manner and for the time required by law.
2. Sworn testimony and argument on behalf of the Petitioner and the Air Pollution Control Officer were made, received, and considered.
3. A nuisance as defined in District Rule 303 is not expected to occur as a result of this Variance.
4. If, due to reasons beyond the control of the Petitioner, compliance is not achieved during this Variance period, additional relief will be sought.
5. District staff supports the Petition as conditioned below.

**BACKGROUND**

1. The Petitioner operates the gasoline dispensing facility at the Army and Air Force Exchange Service (AAFES) Car Care Center at Vandenberg Space Force Base located at 1107 Utah Avenue, VSFB, California.
2. AAFES provides fuel for the privately owned vehicles of military members, dependents, retirees and Department of Defense civilian employees.
3. The Petitioner operates the AAFES gasoline dispensing facility (GDF) which consists of three 12,000-gallon underground storage tanks, twelve dispensers, twenty-four nozzles and associated vapor recovery equipment with a permitted throughput limit of 4,800,000 gallons/year.
4. District Rule 316 and the Petitioner's permit require the above equipment is required to operate as certified by the California Air Resources Board (CARB) pursuant to section 41954 of the California Health and Safety Code.
5. To ensure the equipment is operating as certified by CARB the equipment must undergo vapor recovery testing; and passing results must be achieved. These requirements are also specified in the facility's permit to operate and District Rule 316.
6. The next bi-annual vapor recovery testing is due between January 26, 2024, and February 25, 2024.
7. Gasoline dispensing facilities with a throughput greater than 600,000 gallons/year are required to install an In-Station Diagnostics (ISD) which monitor the vapor recovery equipment to ensure that is functioning normally by automatically identifying failures, notifying station operators, and tying into existing underground storage tank vapor leak monitors.
8. In addition to District permitting requirements and District Rules, underground storage tanks are subject to the California Code of Regulations, Title 23 (Waters), Division 3 (State Water Resources Control Board and Regional Water Quality Control Boards), Chapter 16 (Underground Tank Regulations), which requires the station to be shut down if there are failures of any equipment subject to the regulation.
9. Because the Petitioner's station is equipped with ISD, the ISD alarm may shut down the station, such as an ISD "red failure alarm". The Petitioner's permit to operate prohibits clearing the ISD red failure alarms without first having the repairs made to the system.
10. On September 24, 2023, an ISD alarm shut the system down due to fuel in the tank B sump and brine discovered in the piping leading to the Healy sump. The system will continue to alarm and shut down until the situation is resolved.
11. The necessary repairs require the product lines and sumps to be replaced. The Petitioner will

also replace all fuel and vapor lines while the underground components are exposed due to the age of the system. While these repairs are Certified Unified Program Agency (CUPA) related, a District Authority to Construct is required because more than 6 feet of piping will be replaced. These repairs require a District Authority to Construct (ATC). The Petitioner has applied for ATC 16218 to make the necessary repairs and is pending issuance by the District.

12. The gasoline dispensing facility is out of service until the repairs can be made. As a result, the Petitioner is seeking Variance coverage to provide relief from conducting the bi-annual vapor recovery testing by the due date specified in the Petitioner's permit to operate.

### FINDINGS

1. Without Variance coverage, the Petitioner will be in violation of District Rules 316.G.1 and 206, Part 70 Permit to Operate 13968-R3, Condition 9.C.9.e.
2. Due to conditions beyond the reasonable control of the Petitioner, requiring compliance would result in either (A) an arbitrary or unreasonable taking of property, or (B) the practical closing and elimination of a lawful business. Immediate compliance is not possible until the repairs are made. The repairs have not occurred yet due to the government funding process to obtain funds at the end of the fiscal year. Once the funds are secured, the contracting process will begin.

The In-Station Diagnostics (IDS) will continue to alarm and shut the station down until the repairs are conducted, therefore the gasoline dispensing facility is not currently in operation. The gasoline dispensing facility must be operational to conduct the vapor recovery testing. In addition, the required repairs require a District permit to authorize the repairs before they are conducted.

3. The closing or taking would be without a corresponding benefit in reducing air contaminants. The gasoline dispensing facility is not operational. Shutting down the facility has prevented any leaks into the sump and therefore eliminating any excess emissions.
4. The Petitioner is currently curtailing operations. The gasoline dispensing facility is shutdown until the repairs can be made and vapor recovery testing can be completed.
5. During the period the Variance is in effect, the Petitioner will reduce emissions by not operating the equipment until the repairs are conducted and vapor recovery testing is completed.
6. The Petitioner will monitor gasoline tank volumes. No excess emissions are expected with the granting of this Variance.
7. If, due to reasons beyond the control of the Petitioner, compliance cannot be achieved during this Variance period, additional relief will be sought.

**THEREFORE, THE HEARING BOARD ORDERS,** as follows:

That a 90-Day Variance be granted for relief from the vapor recovery testing requirements until the repairs can be made and testing can be conducted in violation of District Rules 316.G.1 and 206, Part 70 Permit to Operate 13968-R3, Condition 9.C.9.e from February 26, 2024 through May 25, 2024, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. Petitioner shall submit a written report to the Hearing Board and District, to [variance@sbcapcd.org](mailto:variance@sbcapcd.org), by June 10, 2024. The report shall include gasoline tank level at the beginning and end of Variance coverage (in gallons), date(s) and descriptions of repairs made, date(s) and results of vapor recovery testing, and date that operations resumed at the station.
2. Petitioner shall retain the obligation to comply with all other local, state, and federal regulations not specifically referenced in the Order.
3. Failure to abide by all conditions of this Order shall subject the Petitioner receiving the Variance to penalties set forth in Health and Safety Code section 42402.
4. In accordance with District Fees Rule 210, Schedule F.12.e; the Petitioner shall pay excess emission fees for each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of this Variance.
5. Each day during any portion of which a violation occurs is a separate offense.
6. The Environmental Protection Agency does not recognize California's Variance Program; therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.

DATED: Feb. 20, 2024



Terence Dressler  
Santa Barbara County Air Pollution Control District  
Hearing Board