

Agenda Date: January 15, 2009
Agenda Placement: Regular
Estimated Time: 15 min
Continued Item: No

Board Agenda Item

TO: Air Pollution Control District Board
FROM: Terry E. Dressler, Air Pollution Control Officer
CONTACT: Douglas Grapple, 961-8883
SUBJECT: Revisions to Rules on Gasoline Storage and Transfer

RECOMMENDATION:

That the Board:

- A. Hold a public hearing to receive testimony on proposed amended Rule 102 (Definitions) and Rule 316 (Storage and Transfer of Gasoline).
- B. Approve the Resolution attached to this Board Letter. Approval of the resolution will result in the following actions:
 1. CEQA Findings: Adopt the CEQA findings (Attachment 1) pursuant to the California Environmental Quality Act (CEQA) and the CEQA guidelines.
 2. Rule Findings: Adopt the associated rule findings (Attachment 2) in support of the proposed rule revisions pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference. The rule findings also acknowledge public comments received on the proposed rule revisions and adopt the responses to comments as findings of the Board (see Attachment 3).
 3. Rule Adoption and Amendments: Adopt proposed amendments to Rules 102 and 316 (Attachment 4).

EXECUTIVE SUMMARY:

The Santa Barbara County Air Pollution Control District (APCD) Rule 316, Storage and Transfer of Gasoline, implements several control measures. One of the control measures (R-PM-3) requires the use of Phase II vapor recovery systems (VRSs) when refueling motor vehicles. Phase II VRSs are permanently located at the gas stations.

Federal law requires newer motor vehicles to have Onboard Refueling Vapor Recovery (ORVR) systems. The use of ORVR systems negates the need for Phase II VRSs. The U.S. Environmental Protection Agency and the California Air Resources Board recommend that air districts allow Phase II VRSs to be removed from service (or not installed at new stations) when all the vehicles being refueled at qualifying facilities have ORVR systems. Thus, the APCD proposes to adjust Rule 316 by adding exemptions in Rule 316, Sections I.7.a and I.7.b.

The additions of the Rule 316, Section I.7.a and I.7.b exemptions will not impact the APCD's commitment to implement the 2007 Clean Air Plan control measure R-PM-3. The use of ORVR systems constitutes an equivalent alternative control technique.

DISCUSSION:

Objectives:

Rule 316 amendments will exempt the following from the requirement to use Air Resources Board - certified Phase II VRS:

1. Non-retail motor vehicle fueling facilities where 100 percent of vehicles refueled are equipped with ORVR, provided that the Phase II vapor recovery system, if previously installed, has been properly removed from service in a manner approved by the Control Officer.
2. Transfers of E85 from any storage tank into a Flexible Fuel Vehicle fuel tank.¹

The APCD also proposes minor revisions to the Rule 102 and Rule 316 for rule clarification.

Background:

Gasoline emissions have been subject to regulation since the initial adoption of the Santa Barbara County APCD rulebook in 1971. Over the years, the APCD Board consolidated the different gasoline storage and handling rules into Rule 316 and expanded the rule's applicability to cover all of Santa Barbara County. The most-recent significant changes to Rule 316 occurred in 1990. EPA approved the current version of Rule 316 for incorporation into the State Implementation Plan in November 1999.

¹ "E85" is an ethanol-gasoline blend. There is no ARB-certified Phase II vapor recovery system for E85 dispensing facilities. However, in general, "Flexible Fuel Vehicles" are newer and expected to be equipped with ORVR systems.

Implications to the Regulated Community:

WHO IS AFFECTED?

Owners and operators of the following types of refueling stations may seek an exemption from the Phase II VRS requirements:

1. Non-retail gasoline dispensing facilities refueling only vehicles equipped with ORVR, and
2. E85 dispensing facilities.

WHAT REQUIREMENTS ARE ASSOCIATED WITH THE NEW EXEMPTIONS?

The revised rule will not require that the regulated community take any action. However, if a company or agency wants to claim the new exemption in Section I.7.a, then the submittal of an application for an Authority to Construct (ATC) and its approval will be necessary. An ATC is needed to modify the permit's equipment description and conditions and to authorize the removal of the Phase II VRS from service in a manner approved by the Control Officer.¹

The gasoline dispensing facility owner/operator will also need to comply with the Section I.7.a provisions on maintaining records (or an alternative method approved by the Control Officer) to verify that only vehicles equipped with ORVR are refueled at the facility.

The APCD also anticipates existing owners/operators of an E85 dispensing facility to be exempt by Section I.7.b will submit an ATC application to update their permit information and obtain the Control Officer's approval to remove the station's Phase II VRS from service.²

WHAT ARE THE PROPOSED RULE CHANGES?

Rule 102

In the rule title area, the APCD is adding revision dates omitted during the June 19, 2008 rulemaking action.

Minor changes to the definitions of *gasoline* and *organic solvents* are proposed. On the *gasoline* definition, we are changing the *Reid vapor pressure* measurement method to the one suggested by the Air Resources Board (ARB). The APCD is also adding *including aviation gasoline* in the *gasoline* definition for rule clarity. Although, Rule 316 does not require the use of a Phase II VRS

¹ The process to remove Phase II VRS from service will likely involve the capping off of the Phase II VRS piping (at the under dispenser containment sump and inside the dispenser cabinet). This is the same approach used when converting a gasoline tank to diesel fuel.

² Presently, there is only one E85 dispensing facility in operation in Santa Barbara County (FID 0201, PTO 11023, Motor Vehicle Fueling Facility located at Building 10726, Central Zone, Vandenberg Air Force Base).

when cargo tanks refuel aircraft, the rule does require that aviation gasoline bulk plants and cargo tanks be equipped with Phase I VRSs.

Changes to the *organic solvents* definition to update the test method.

Rule 316

The terms “ARB” and “EPA” are being spelled out for rule clarity. As a result of spelling out “ARB,” the “Bottom loaded” definition needs to be relocated to keep the definitions in alphabetical order. Staff is also adding the terms “E85,” “Flexible Fuel Vehicle,” and “Onboard Refueling Vapor Recovery.” These terms are used in the new exemptions.

Per ARB suggestions, the APCD has revised Section F, *Gasoline Delivery Vessels*, and Section H, *Test Methods*. These changes refer to the most-current test methods. Also, new text in Section H clarifies the requirements.

New Sections I.7.a and I.7.b provide the exemptions from the requirement to use Phase II VRS for 1) non-retail service stations, which refuel only ORVR-equipped vehicles, and 2) E85 refueling facilities.

Other minor change: the “%” symbol is changed to “percent.”

WHY IS THE ADOPTION OF THE RULE EXEMPTIONS CRITICALLY IMPORTANT TO SOME MEMBERS OF THE REGULATED COMMUNITY?

There is a state mandate that a new generation of clean nozzles and other Phase II VRS components be installed on facilities with underground tanks by April 1, 2009. Without the exemptions, facilities that refuel only vehicles equipped with ORVR will need to comply with these enhanced Phase II VRS requirements. And such compliance would require that equipment be purchased, permitted, and installed in a very short time frame. Thus, the APCD’s goal is to incorporate the exemptions into the rule as soon as possible.

WHAT ARE THE FISCAL IMPACTS TO THE REGULATED INDUSTRY CLAIMING THE EXEMPTION?

The owners and operators of facilities claiming and being granted one of the new exemptions:

1. Will reduce costs associated with maintaining the Phase II VRS and avoid costs associated with upgrading the equipment to comply with the enhanced vapor recovery provisions.
2. May incur additional costs associated with the implementation of recordkeeping and/or other compliance verification methods associated with the modified permit/facility.
3. Will need to pay an application filing fee (\$335) and submit an application to modify their permit and facility.

4. Will have a permit reevaluation schedule of once every three years instead of annually.¹

In addition, for sources not based on the cost reimbursement method, an ATC/PTO modification fee of \$439.92 will be assessed (based on the current fee rate).

Comparisons to Adjacent Local Air Pollution Control Districts:

Air districts adjacent to the Santa Barbara County APCD include the San Joaquin Valley APCD, the Ventura County APCD, and the San Luis Obispo County APCD. The Ventura County APCD and the San Luis Obispo County APCD have not yet added the E85 or ORVR exemptions, although they are considering them.

The San Joaquin Valley APCD has added a general exemption to Rule 4622 that covers both E85 and ORVR fueling. The Rule 4622 exemption requires that 100 percent of vehicle fleets be equipped with ORVR systems. The 100 percent requirement is similar to the provision we are proposing.

Analysis of Existing Federal and District Regulations:

The following information is included to comply with the California Health & Safety Code Section 40727.2 requirements.

Staff has identified federal air pollution control requirements for vehicle refueling emissions in 40CFR, Part 86, Control of Emissions from New and In-Use Highway Vehicles and Engines. This federal law has numerous provisions regarding controls on refueling emissions.² In general, the requirements apply to the vehicle manufacturers.³

¹ Without the Phase II VRS nozzles, the Rule 210.I.B.2.b annual reevaluation provision no longer applies and a triennial reevaluation period is established per Rule 210.I.B.2.a.

² Including Subparts A, B, and S (e.g., Sections 86.001-9, 86.004-9, 86.099-8, 86.1811-01, 86.1812-01, 86.1813-01, and 86.1816-05). The 40CFR Part 86 refueling emission limits are provided in units of gram per gallon and gram per liter of fuel dispensed (or grams hydrocarbon per gallon of fuel dispensed). The APCD Rule 316 specifies the Phase II VRS limit in units of percent (i.e., "... 95 percent effective when used in conjunction with an ARB-certified Phase I vapor recovery system.").

³ Section 202(a)(6) of the federal Clean Air Act (CAA) was the genesis of the 40CFR, Part 86 refueling emission limits. The CAA provision specifies the control limit in units of efficiency (i.e., "The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent.").

Existing Santa Barbara County APCD rules that apply to the same equipment or source type include:¹

Rule 201. Permits Required
Rule 202. Exemptions to Rule 201
Rule 210. Fees

Rule 301. Circumvention
Rule 303. Nuisance
Rule 316. Storage and Transfer of Gasoline

Staff was unable to find any emission control standards constituting best available control technology for this source type.

Cost Effectiveness and Incremental Cost-Effectiveness:

Cost-effectiveness and incremental cost-effectiveness calculations are a function of emission reductions and equipment costs associated with the control measure. There will not be any additional emission reductions associated with the proposed exemptions. Further, the ORVR equipment costs are already included in the motor vehicle costs. Thus, cost-effectiveness and incremental cost-effectiveness analyses are unnecessary and inappropriate for this rule revision.

Implications to the APCD Work Load and Budget:

There may be a slight increase in APCD permitting and inspection activities to ensure that:

1. Qualifying facilities remove their Phase II VRS equipment properly,
2. The permit's equipment description is updated, and
3. The permit conditions are revised accordingly.

Current APCD staffing levels and budget are sufficient to address the slight increase in activities associated with the revised rule.

Public Review:

About a month before the October 22, 2008 Community Advisory Council (CAC) Meeting/Workshop, the APCD sent letters to facilities that may qualify for the proposed exemptions. Besides explaining the project, the letter mentioned the upcoming CAC Meeting/Workshop and invited comments on the project.

On October 15, 2008, ARB provided suggested changes and additions to the test methods. They had no comments on the proposed new exemptions from the Phase II VRS requirements. The APCD revised the rules as suggested by ARB.

¹ The rules within Regulation VIII, New Source Review, may also apply depending on a source's Net Emissions Increase.

During the October 22, 2008 CAC Meeting/Workshop, the regulated community indicated support of the APCD rulemaking action. They did mention concerns about the how there may be an occasional need to use a small gas can (e.g., someone runs out of gas). APCD staff explained that filling a small gas can is exempt.

The CAC asked about differences in efficiencies between the Phase II VRSs and the ORVR systems. The APCD indicated that the assumed efficiencies are the same and that the EPA and ARB consider them equivalent per their guidelines on the elimination of the Phase II VRS requirement for qualifying facilities.

The CAC voted unanimously to recommend that the Board adopt the proposed revisions to Rules 102 and 316.

California Environmental Quality Act (CEQA):

The APCD has reviewed the proposed revisions to Rules 102 and 316 regarding Gasoline Storage and Transfer and determined that that the action has no potential for significant environmental effect pursuant to CEQA Section 15061 (c) (3). Accordingly, the APCD has prepared CEQA Findings (Attachment 1) and will file a Notice of Exemption with the County Clerk following approval by the APCD Board.

Concurrences:

County Counsel has reviewed this Board Letter and its attachments and approves them as to form.

SPECIAL INSTRUCTIONS:

After adoption by the Board, please have the Board Chair sign the attached resolution and return a copy along with a copy of the minute order to Douglas Grapple of the Air Pollution Control District.

Attachments:

- Resolution
- Attachment 1 - CEQA Findings
- Attachment 2 - Rule Findings
- Attachment 3 - Public Comments and Responses to Comments
- Attachment 4 - Proposed Amended Rules

BOARD RESOLUTION

**PROPOSED AMENDED RULE 102
(DEFINITIONS)**

**PROPOSED AMENDED RULE 316
(STORAGE AND TRANSFER OF GASOLINE)**

January 15, 2009

Santa Barbara County Air Pollution Control District

**260 North San Antonio Road, Suite A
Santa Barbara, California 93110**

(805) 961-8800

**RESOLUTION OF THE AIR POLLUTION
CONTROL DISTRICT BOARD OF THE COUNTY OF
SANTA BARBARA, STATE OF CALIFORNIA**

In the Matter of)	APCD Resolution No.
)	
Adopting Amended Rules 102 and 316)	
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RECITALS

1. The Air Pollution Control District Board of the County of Santa Barbara (“Board”) is authorized to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code section 40725 *et seq.*

2. Pursuant to Health and Safety Code section 40001, the Board is required to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards.

3. The Board has determined that a need exists to amend Rule 102 (Definitions) and Rule 316 (Storage and Transfer of Gasoline). The amendments to Rule 102 provide revised definitions that apply to the entire rule book. The amendments to Rule 316 provide exemptions from the requirement to use a Phase II vapor recovery system when 1) only vehicles equipped with Onboard Refueling Vapor Recovery are refueled and 2) only Flexible Fuel Vehicles are refueled with E85.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1) This Board has held a hearing and accepted public comments in accordance with the requirements of Health and Safety Code section 40725 *et seq.*

2) The California Environmental Quality Act (“CEQA”) findings set forth in Attachment 1 of the Board Package dated January 15, 2009 (herein after “Board Package”) are hereby adopted as findings of this Board pursuant to CEQA and the CEQA guidelines.

3) The general rule findings set forth in Attachment 2 of the Board Package are hereby adopted as findings of this Board pursuant to Health and Safety Code section 40727.

4) The Responses to Public Comments set forth in Attachment 3 of the Board Package are hereby adopted as findings of this Board.

5) The amendments to Rules 102 and 316 as set forth in Attachment 4 of the Board Package are hereby adopted as rules of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code section 40725 *et seq.*

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6) The Board authorizes the Control Officer to transmit Rules 102 and 316 to the State Air Resources Board in compliance with applicable state and federal law. Additionally, the Board authorizes the Control Officer to do any other acts necessary and proper to obtain necessary approvals of the amended rules by the California Air Resources Board and the United States Environmental Protection Agency.

PASSED AND ADOPTED by the Air Pollution Control District Board of the County of Santa Barbara, State of California, this 15th day of January, 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:
TERRENCE E. DRESSLER
CLERK OF THE BOARD,

By _____
Deputy

Chair, Air Pollution Control
District Board of the County of
Santa Barbara

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

ATTACHMENT 1

CEQA FINDINGS

PROPOSED AMENDED RULE 102
(DEFINITIONS)

PROPOSED AMENDED RULE 316
(STORAGE AND TRANSFER OF GASOLINE)

January 15, 2009

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

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ATTACHMENT 1

CEQA FINDINGS

Pursuant to State CEQA Guidelines, the APCD, as Lead Agency, reviewed the proposed revisions to Rule 102 and Rule 316.

Changes to Rule 316 will allow vehicle refueling without the use Phase II vapor recovery systems under two exemptions. The two exemptions would apply to: 1) dispensing of E85 (an ethanol-gasoline blend) and 2) non-retail gasoline dispensing into motor vehicles equipped with Onboard Refueling Vapor Recovery. The APCD also proposes minor revisions to Rule 102, Definitions, to clarify the rule provisions.

E85 dispensing facilities and non-retail gasoline dispensing facilities are typically operated by governmental agencies, car rental agencies, and corporations. Modifications to Rule 316 will not require the installation of any additional control equipment.

Motor vehicles equipped with Onboard Refueling Vapor Recovery (ORVR) systems perform the same function as Phase II vapor recovery system to control gasoline vapors during vehicle refueling. The proposed exemptions will not cause any changes in emissions.

The revised Rule 316 will allow qualifying existing facilities to decommission their Phase II vapor recovery systems by disconnecting and capping the vapor hoses and piping. No demolition will be required. The decommissioning of the Phase II VRS at each facility will be subject to an APCD permit. There will be no relaxation of standards, and no cross-media impacts will result.

It can be seen with certainty that there is no potential that these rule amendments may have a significant effect on the environment. Therefore, the Board finds that the proposed revisions to Rule 102 and Rule 316 are exempt from CEQA under Section 15061 (b) (3) of the State CEQA Guidelines.

ATTACHMENT 2

RULE FINDINGS

PROPOSED AMENDED RULE 102
(DEFINITIONS)

PROPOSED AMENDED RULE 316
(STORAGE AND TRANSFER OF GASOLINE)

January 15, 2009

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 2

RULE FINDINGS FOR PROPOSED AMENDED RULES 102 & 316

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the adoption of amended Rule 102 (Definitions) and Rule 316 (Storage and Transfer of Gasoline).

Necessity

The Board determines that it is necessary to adopt amended Rules 102 and 316 to 1) exempt certain non-retail gasoline dispensing facilities and E85 dispensing facilities from refueling vapor recovery requirements, as allowed by the federal Environmental Protection Agency guidance, and 2) improve rule clarity. All refueling subject to the new exemptions shall be accomplished with vehicles that are equipped with Onboard Refueling Vapor Recovery. Thus, the requirements in the 2007 Clean Air Plan control measure R-PM-3 shall be met by the use of an alternative control technique (Onboard Refueling Vapor Recovery systems).

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the District Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that the proposed amended rules are sufficiently clear. The rules were publicly noticed and reviewed by the Community Advisory Council. The rules are written or displayed so that persons directly affected by them can easily understand their meaning.

Consistency

The Board determines that the adoption of the proposed amendments to Rules 102 and 316 are consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations with regard to the control of volatile organic compound emissions from motor vehicle and mobile equipment coating operations.

One of the neighboring air districts to the Santa Barbara County Air Pollution Control District, the San Joaquin Valley Unified Air Pollution Control District, has adopted exemptions similar to those proposed in Rule 316. Other neighboring air districts plan to add similar exemptions. Thus, the Board finds that amended Rules 102 and 316 are consistent with or will be consistent with those in the neighboring air pollution control districts.

Nonduplication

The Board finds that the adoption of proposed amendments to Rules 102 and 316 do not impose the same restrictions as any existing state or federal regulation, and the proposed amended rules are necessary and proper to execute the powers and duties granted to, and imposed upon, the APCD.

Reference

The Board finds that we have authority under state law to amend Rules 102 (Definitions) and 316 (Storage and Transfer of Gasoline) pursuant to Health and Safety Code Section 39002 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Public Comment

Response to Comments

The Board has reviewed the response to comments included in Attachment 3 and hereby approves those responses to comments as findings.

ATTACHMENT 3

PUBLIC COMMENTS AND
RESPONSES TO PUBLIC COMMENTS

PROPOSED AMENDED RULE 102
(DEFINITIONS)

PROPOSED AMENDED RULE 316
(STORAGE AND TRANSFER OF GASOLINE)

January 15, 2009

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
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ATTACHMENT 3

PUBLIC COMMENTS AND RESPONSES TO PUBLIC COMMENTS

**Comment Submitted by
Vandenberg Air Force Base,
March 10, 2008**

[COMMENT 1]

[. . .]

f. Rule 316 exemption for captured fleets with ORVR. VAFB requested the APCD consider a Rule 202 exemption from the requirements to install enhanced vapor recovery Phase II on gas dispensing facilities fueling captured fleets with on board vapor recovery (ORVR) systems. Please refer to Attachment 2. Attachment 2 provides CARB guidance to local California Districts encouraging them to revise vapor recovery rules requiring fleets.

[RESPONSE TO COMMENT 1]

This request requires a revision to Rule 316, Storage and Transfer of Gasoline. It cannot be accomplished through a revision of Rule 202. We have received the request to revise the Rule 316 consistent with the ARB guidance and we are looking into it.

**Comments Submitted by the
California Air Resources Board
October 15, 2008**

[COMMENT 2]¹

Rule 101 Definitions

1. Gasoline: Air Resources Board's (ARB) test method for Reid Vapor Pressure (RVP) found in Title 13, Division 3, Chapter 5, Article 4, section 2297 should be listed to be consistent with ARB's regulations. The test procedure found in section 2297 is deemed equivalent to American Society for Testing Materials (ASTM) Test Method D-323.

¹For brevity, the District is handling all of these comments as one comment.

Rule 316 Storage and Transfer of Gasoline

2. Section F. Requirements – Gasoline Delivery Vessels: Cargo tanks, or delivery vessels, shall be certified (deemed vapor tight) using ARB Test Method 204.1 and shall meet the year round requirements of ARB Test Methods 204.2 and 204.3
3. Section H. Test Methods: The test method required by ARB for the annual certification of cargo tanks is ARB Test Procedure 204.1. Cargo tanks operating in the State of California MUST meet the requirements of ARB Test Procedure 204.1 in order to receive an annual ARB certification. U.S. Environmental Protection Agency Method 27 is required by U.S. Department of Transportation to meet annual testing requirements found in Title 29 Code of Federal Regulations.

[RESPONSE TO COMMENT 2]

The APCD incorporated the ARB suggestions into the rules. The two agencies worked together to:

- 1) re-draft the Section F text,
- 2) confirm the correct CFR title and section for referencing the Department of Transportation cargo tank testing provisions, and
- 3) clarify federal cargo tank testing requirements (now found in proposed amended Rule 316, Section H.4).

The ARB indicated that cargo tank owners and operators are unable to comply with the federal cargo tank testing requirements by submitting the ARB Test Procedure 204.1 testing results. The federal provisions in EPA Method 27 require 1) repeated pressure tests, and 2) that the arithmetic average of the two results is within the allowable pressure change. However, the ARB Test Procedure 204.1 requires only one pressure test. Thus, complying with the ARB testing requirements and standards does not satisfy the federal requirements.

**Comment Submitted by the
California Air Resources Board
December 22, 2008**

[COMMENT 3]

ARB Staff Rule Review Results

[. . .]

The following rules, which are scheduled for a public hearing to be held by your District Board on January 15, 2009, were received by us on November 5, 2008, for our review:

Rule 102	Definitions
Rule 316	Storage and Transfer of Gasoline

The Air Resources Board staff has reviewed the rules and, based on the information available to us at this time, we have no comment. The rules were examined by the Monitoring and Laboratory Division, and by the Stationary Source Division.

[. . .]

[RESPONSE TO COMMENT 3]

The District appreciates the input from the Air Resources Board.

**Comments Submitted by
Southern California Gas Company
December 23, 2008**

[COMMENT 4]¹

**Southern California Gas Company Comments on
Santa Barbara County Air Pollution Control
District Proposed Amended Rule 316
Storage and Transfer of Gasoline, dated
November 20, 2008**

December 23, 2008

SCG is asking that SBCAPCD consider revising PAR Rule 316 I.7.(a) to require only 95% of the vehicles to have ORVR systems installed. The provision would then be similar to the recently proposed Antelope Valley Air Quality Management District (AVAQMD) and the Ventura County Air Pollution

¹For brevity, the District is handling all of these comments as one comment.

Control District amendments, as well as the amendments already adopted by other California air districts (Monterey, San Diego, Bay Area). Such a revision would provide regulatory flexibility for non-retail fleet fueling when a designated percentage of the vehicles are equipped with ORVR. SCG believes this language is more in line with EPA and CARB understanding of Clean Air Act 202 a(6).

Unlike many other organizations, SCG is a regulated by the California Public Utilities Commission (CPUC). As a CPUC regulated utility, SCG is subject to customer service requirements and emergency services requirements. Many of our crews and technicians must be able to respond in a timely fashion to service calls and respond to emergencies during natural or manmade disasters. As discussed, SCG cannot simply “lockout” non ORVR vehicles from our GDFs as suggested. The potential penalties and recriminations from the CPUC would not allow the locking out of non ORVR SCG vehicles.

By adopting the 100% ORVR requirement, SBCAPCD might create an unintended consequence. Jurisdictions around SBCAPCD are adopting a 95% ORVR level. Since this is easily attainable, some organizations will transfer their older and non ORVR vehicles into SBCAPCD, and place the newer ORVR vehicles into the other jurisdictions in order to utilize the ORVR exemption. Since older vehicles pollute more, and SBCAPCD does not have regulatory control over motor vehicles, setting the ORVR level at 100% could create more air pollution in SBCAPCD.

The adoption of the 100% ORVR requirement also makes it very unlikely that any organization would utilize the exemption. Very few organizations can make sure with 100% certainty that no non ORVR vehicles will use the exempt pumps. Unlike a 95% requirement, the 100% requirement places a huge compliance liability on GDF facilities utilizing the exemption. One mistake, and there is no mechanism for compliance other than reinstalling the vapor recovery equipment. This is a significant compliance liability for any organization to adopt. This virtually assures that very few organizations will seek the Phase II exemption. The 95% ORVR requirements will encourage many organizations to seek the exemption which can provide many advantages that Phase II system cannot achieve. Those advantages are:

ORVR systems increase the emission reductions from 95% to approximately 97-98%. As cited in the

CARB Legal memo dated January 9, 2002 authored by Diane Johnston, CARB determined that ORVR systems with 95% are the equivalent to Phase II systems at 97% or better (Attachment 2). Currently SCG vehicle mix will approximately yield a potential 71% reduction in emissions from gasoline fueling.

Phase II systems require numerous pieces of equipment in order to recovery gasoline vapors. These numerous pieces of equipment have a higher probability of failure than ORVR. ORVR systems do not have any human interaction which can lead to increased equipment failures. ORVR systems are warranted for 3 years and 50,000 miles as required by California state law Title 13 Division 3 Chapter 1 Article 6. Most Phase II equipment is warranted for no more than 12 months as required by CARB regulations.

ORVR systems increase fuel efficiency and mileage of vehicles with an EPA estimated 78 million gallons of gasoline reduction in fuel use between 1998 and 2020 which will assist in meeting anticipated CARB greenhouse gas emissions reduction requirements. CARB will be enacting AB 32 regulations in the near future and fuel efficiency is a great tool for reducing greenhouse gases.

EPA plans on removing the requirement for Phase II systems sometime after 2010. Detailed in the December 12, 2006 memo from Stephen Page and Margo Oge (Attachment 3), section 202 (a)(6) requires EPA to make a widespread use determination and the requirement for Phase II or Stage II as described by EPA can be suspended. The memo details that widespread use is determined by 95% of vehicles fueled to be ORVR compliant.

Southern California Gas has two facilities with gasoline dispensers that are located in the SBCAPCD jurisdiction. The motor vehicles range from light duty autos to heavy duty trucks greater than 10,000 lbs GVWR. Since vehicles over 10,000 lbs. GVWR are not federally mandated to be equipped with ORVR, we believe following the 95% ORVR standard is appropriate. Setting the percent ORVR penetration at 95 percent would allow both operating and compliance flexibility for our fleet while **increasing** emission reductions in the SBCAPCD.

ORVR systems are actively challenged by the onboard emissions diagnostic systems. ISD is a passive system and does not actively challenge vapor recovery systems. No external system vapor recovery system can be monitored and tested as an ORVR

systems can.

A GDF operating without a Phase II vapor recovery system and relying on ORVR systems to capture can lead to reduce pressure on GDFs. The July 24, 2008 by Frances Cameron of CARB (Attachment 4) clearly states that if left undisturbed by unusual “vehicle venting”, the ORVR GDF will not pressurize create emissions to the atmosphere. Current Phase II systems require EVR systems to control vapor growth in the vapor space of USTs. ORVR GDFs do not have the problem.

[RESPONSE TO COMMENT 4]

The District considered making the requirement “no less than 95% of the vehicle being refueled with gasoline at nonretail gasoline dispensing facilities shall be equipped with ORVR.” We decided to require that 100% of these vehicles be equipped with ORVR because:

- 1. We do not want any emission increases from allowing vehicle refueling without controls, and*
- 2. Determination of compliance with a less than 100% ORVR-equipped vehicle fueling provision would be more difficult and take additional resources.*

The District understands that the SCG requires flexibility to fuel all types of vehicles and cannot limit the vehicles to only those equipped ORVR. We also understand that the Gas Company is installing the enhanced vapor recovery equipment on the Phase II vapor recovery systems at the two stations located in Santa Barbara County. In this way, SCG will comply with the requirements of the Air Pollution Control District and the California Public Utilities Commission.

Comments Submitted by the Environmental Protection Agency December 23, 2008

[COMMENT 5]¹

We are providing comments based on our preliminary review of the draft rule identified above. Please direct any questions about our comments to

¹For brevity, the District is handling all of these comments as one comment.

me at (415) 947-4115 or to Alfred Petersen at (415) 947-4118.

316.B.4, 5 & 14: We believe the new definitions for E85, flexible fuel vehicles and onboard refueling vapor recovery (ORVR) are approvable.

316.I.5: This subsection on exemptions for gasoline bulk plants appeared to have expired on January 1, 1992 and should be removed.

316.I.7: We believe the new exemptions from Phase II vapor controls for fleets (100% ORVR) and from Phase II vapor controls for E85 facilities are approvable.

316.J: This subsection on compliance schedules

appears to have partially expired by 1992 and should be removed or revised and justified.

[RESPONSE TO COMMENT 5]

The District is aware of outdated provisions in the Rule 316 Sections I.5 and J. The intent of the current rulemaking effort is to limit the revisions to the addition of the Rule 316, Section I.7.a and b exemptions. We plan to revisit Rule 316 when we perform general administrative-type rule revisions sometime in the near future.

Thank you for your input on our new definitions and exemptions.

ATTACHMENT 4

PROPOSED AMENDED RULES

PROPOSED AMENDED RULE 102
(DEFINITIONS)

PROPOSED AMENDED RULE 316
(STORAGE AND TRANSFER OF GASOLINE)

January 15, 2009

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

Attachment 4

Proposed Amended Rules

[Proposed amended rule text is provided in strike out and underline format. Strike out indicates text proposed for deletion. Underline text indicates proposed new text.]

RULE 102. DEFINITIONS. (Adopted 10/18/1971, revised 1/12/1976, readopted 10/23/1978, revised 7/11/1989, 7/10/1990, 7/30/1991, 7/18/1996, 4/17/1997, 1/21/1999, 5/20/1999, 6/19/2003, 1/20/2005, and 6/19/2008, and 1/15/ 2009)

These definitions apply to the entire rulebook. Definitions specific to a given rule are defined in that rule or in the first rule of the relevant regulation. Except as otherwise specifically provided in these Rules where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in Division 26 of the Health and Safety Code.

[. . .]

“Gasoline” means any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure, as measured using ~~ASTM Method D323-82~~, California Code of Regulations, Title 13, Division 3, Chapter 5, Article 4, section 2297, “Test Method for the Determination of the Reid Vapor Pressure Equivalent Using an Automated Vapor Pressure Test Instrument,” of 4.0 pounds per square inch or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known or sold as gasoline, including aviation gasoline.

[. . .]

“Organic Solvents” means organic materials, including diluents and thinners which are liquid at standard conditions and which are used as, dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point, as measured using ~~ASTM Method D-1078-95~~, “Standard Test Method for Distillation Range of Volatile Organic Liquids,” ASTM International, higher than 220°F at 0.5 millimeter mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F.

[. . .]

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy

Attorneys for the Santa Barbara County
Air Pollution Control District

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RULE 316. STORAGE AND TRANSFER OF GASOLINE. (Adopted 10/18/1971 and 9/30/1974, revised 6/7/1976, 6/14/1976, 10/1976 and 6/27/1977, readopted 10/23/1978, revised 6/11/1979, 1/17/1989, 7/11/1989, 7/10/1990, 11/13/1990, 12/14/1993, and 4/17/1997, and 1/15/ 2009)

A. Applicability

The provisions of this rule shall apply to the storage and transfer of gasoline.

B. Definitions

For the purposes of this rule, the following definitions shall apply:

- ~~1.~~ **"Bottom loaded"**: ~~A gasoline delivery vessel shall be considered to be bottom loaded when the fuel transfer and vapor return lines have separate, independent, and dedicated attachments on the delivery vessel, when the inlet is flush with the bottom of the storage device, and when the delivery vessel hatches remain closed during fuel transfer.~~
- ~~2~~1. **"CARB Air Resources Board-certified vapor recovery system"**: A vapor recovery system which has been certified by the CARB Air Resources Board pursuant to Section 41954 of the Health and Safety Code.
- ~~2.~~ **"Bottom loaded"**: A gasoline delivery vessel shall be considered to be bottom loaded when the fuel transfer and vapor return lines have separate, independent, and dedicated attachments on the delivery vessel, when the inlet is flush with the bottom of the storage device, and when the delivery vessel hatches remain closed during fuel transfer.
3. **"Existing"**: Any gasoline storage and transfer facility operating, constructed, or under construction as of July 10, 1990.
- ~~4.~~ **"E85"**: A petroleum distillate/alcohol blend having a Reid vapor pressure of 4.0 pounds per square inch or greater and meeting the requirements of Title 13 California Code of Regulations, Section 2250 et seq., and as further defined in Title 12 California Code of Regulations Section 2250(b) and containing a minimum 15 percent of petroleum distillate and a maximum 85 percent of ethyl alcohol.
- ~~5.~~ **"Flexible Fuel Vehicle"**: A vehicle specially designed and manufactured to operate on either gasoline or on E85.
- ~~4~~6. **"Gasoline bulk plant"**: An intermediate gasoline loading facility where delivery to the facility's storage containers and delivery from the facility is by truck.
- ~~5~~7. **"Gasoline delivery vessel"**: A truck, trailer, or railroad car with a storage device containing gasoline, or gasoline vapors, used to transport fuel or other petroleum products.
- ~~6~~8. **"Gasoline terminal"**: A gasoline loading facility where delivery to the facility's storage containers is by means other than truck.
- ~~7~~9. **"Gasoline vapors"**: The reactive organic compounds in the displaced vapors including any entrained liquid gasoline.
- ~~8~~10. **"Leak free"**: A leak rate of three (3) drops per minute or less of a liquid containing reactive organic compounds.
- ~~9~~11. **"Mobile vehicle fueling facility"**: A gasoline container equipped with a dispensing nozzle or nozzles mounted on a truck, trailer or other conveyance and used to fill motor vehicle fuel tanks.

- ~~40~~12. **"Motor vehicle"**: A vehicle as defined in Section 415 of the Vehicle Code.
- ~~41~~13. **"Motor vehicle fueling facility"**: A facility where gasoline is transferred directly into the fuel tanks of motor vehicles.
14. **"Onboard Refueling Vapor Recovery"**: A motor vehicle-based vapor recovery system required by Title 13 California Code of Regulations, Section 1978, or 40 Code of Federal Regulations Part 86.
- ~~42~~15. **"Phase I vapor recovery system"**: A gasoline vapor recovery system or equipment which recovers the vapors generated during the transfer of gasoline from gasoline delivery vessels into gasoline storage containers.
- ~~43~~16. **"Phase II vapor recovery system"**: A gasoline vapor recovery system or equipment which recovers the vapors generated during the fueling of motor vehicles from gasoline storage containers.
- ~~44~~17. **"Retail service station"**: Any new or existing motor vehicle fueling facility subject to payment of California sales tax on gasoline sales.
- ~~45~~18. **"Submerged fill pipe"**: Any fill pipe or discharge nozzle which meets any one of the following conditions:
- a. If the storage container is filled from the top, the discharge opening must be entirely submerged when the liquid level is 6 inches above the bottom of the container.
 - b. If the storage container is filled from the side, the discharge opening must be entirely submerged when the liquid level is 18 inches above the bottom of the container.
- ~~46~~19. **"Storage container replacement"**: Replacement of one or more gasoline storage containers or excavation of 50 percent or more of an existing facility's total underground liquid piping from the gasoline storage containers to the gasoline dispensers.
- ~~47~~20. **"Switch loading"**: The loading of organic liquids with a Reid vapor pressure of less than 4.0 pounds into a delivery vessel where the previous load was gasoline.
- ~~48~~21. **"Vapor tight"**: An emission of gaseous organic compounds which causes an appropriate analyzer sampling at a distance of one (1) centimeter from a source to register less than 10,000 parts per million, as methane, as determined by EPA-Environmental Protection Agency Reference Method 21 (Determination of Volatile Organic Compound Leaks).

C. Requirements - Gasoline Storage Containers

1. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline into any gasoline storage container which has 250 gallons or more capacity shall use a permanently installed submerged fill pipe for such transfer.
2. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline from a gasoline delivery vessel into any storage container with 250 gallons or more capacity shall use a permanently installed CARB Air Resources Board-certified Phase I vapor recovery system.
3. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline from any container with 250 gallons or more capacity into any motor vehicle fuel tank with more than 5 gallons capacity shall use a permanently installed CARB Air Resources

Board-certified Phase II vapor recovery system during the transfer. The Phase II vapor recovery system shall be certified to be at least 95 percent effective when used in conjunction with an CARB Air Resources Board-certified Phase I vapor recovery system.

4. Any gasoline dispensing nozzle installed on a gasoline container subject to Section C.3 of this Rule shall be equipped with a hold-open latch except where prohibited by local ordinance, State or Federal regulation or the agency responsible for local fire control.
5. Any above ground gasoline storage container with 250 gallons or more but less than 40,000 gallons capacity shall be equipped with a pressure-vacuum relief valve with minimum pressure and vacuum settings of 90% percent of the maximum safe pressure and vacuum ratings of the container.
6. Any above ground gasoline storage container with 40,000 gallons capacity or more shall be equipped with a vapor loss control device as described in Rule 326.E.3.
7. No person shall store any gasoline with a true vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions in any storage container with an internal floating roof, internal floating roof cover, or external floating roof.

D. Requirements - Gasoline Terminals

1. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline into a gasoline delivery vessel at a gasoline terminal shall use an CARB Air Resources Board-certified vapor recovery system. This vapor recovery system shall limit the ROC emissions to 0.08 pounds per 1000 gallons of gasoline loaded.
2. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline into a gasoline delivery vessel shall ensure that loading is accomplished in such a manner that displaced gasoline vapors are vented only to the vapor recovery system. Measures shall be taken to insure that the loading device is leak free when it is not in use and to accomplish complete drainage before the loading device is disconnected.
3. Switch loading shall be subject to the requirements of Section D.1 of this rule.
4. Product transfer equipment shall be configured to require that all gasoline delivery vessels are bottom loaded.

E. Requirements - Gasoline Bulk Plants

1. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline into a gasoline delivery vessel at a gasoline bulk plant shall use an CARB Air Resources Board-certified vapor recovery system. This vapor recovery system shall limit the ROC emissions to 0.50 pounds per 1000 gallons of gasoline loaded.
2. Any person transferring, permitting the transfer, or providing equipment for the transfer of gasoline into a gasoline delivery vessel shall ensure that loading is accomplished in such a manner that displaced gasoline vapors are vented only to the vapor recovery system. Measures shall be taken to insure that the loading device is leak free when it is not in use and to accomplish complete drainage before the loading device is disconnected.
3. Switch loading shall be subject to the requirements of Section E.1 of this rule.

F. Requirements - Gasoline Delivery Vessels

1. Any gasoline delivery vessel manufactured and purchased after June 27, 1977 shall be equipped with a vapor recovery system approved by the ~~CARB~~Air Resources Board pursuant to Section ~~4169241962~~ of the State Health and Safety Code. The vapor tightness of such system shall be determined using ~~CARB~~the Air Resources Board-approved test method Test Method 2-5 or shall meet the specifications for a "vapor-tight gasoline tank truck" specified in 40 CFR 60.501 (in conjunction with ~~EPA~~Environmental Protection Agency Test Method 27).
2. Any gasoline delivery vessel loaded with gasoline at a gasoline terminal or gasoline bulk plant, equipped with a vapor recovery system as required by Section D or Section E of this rule, shall be certified (deemed vapor tight) annually by the ~~CARB~~Air Resources Board pursuant to Section ~~4169241962~~ of the State Health and Safety Code.
3. Any gasoline delivery vessel used to transfer gasoline into any storage container with 250 gallons or more capacity shall be certified (deemed vapor tight) annually by the ~~CARB~~Air Resources Board pursuant to Section ~~4169241962~~ of the State health and Safety Code.
4. Any person transferring or permitting the transfer of gasoline into any gasoline delivery vessel shall use a submerged fill pipe or bottom loading.

G. Vapor Recovery System Operation and Maintenance Requirements

1. Any vapor recovery system or other equipment installed pursuant to any provision of this rule shall be maintained and operated in the same manner as when certified by the ~~CARB~~Air Resources Board.
2. All vapor recovery equipment shall be maintained in good working order and shall be leak free and vapor tight, except for the connection between the Phase II vapor recovery nozzle faceplate and the motor vehicle fill pipe during vehicle refueling.
3. Any vapor recovery system shall be maintained and operated in a manner that prevents the gauge pressure in a delivery vessel from exceeding 18 inches of water column or 6 inches of water vacuum.
4. No person shall use or permit the use of any Phase II system or any component thereof containing a defect identified in Title 17, California Code of Regulations, Section 94006, until it has been repaired, replaced, or adjusted as necessary to remove the defect. If District reinspection is required under Health and Safety Code Section 41960.2, use shall not be permitted until the District has authorized its use.

H. Test Methods

1. Compliance with the limits of Section D.1 shall be determined by ~~CARB~~Air Resources Board Test Method 203 or by performance test procedures specified in 40 CFR 60.503 (in conjunction with ~~EPA~~Environmental Protection Agency Reference Methods 2A, 2B, 25A and 25B).
2. Compliance with the limits of Section E.1 shall be determined by ~~CARB~~Air Resources Board Test Method 202 or by performance test procedures specified in 40 CFR 60.503 (in conjunction with ~~EPA~~Environmental Protection Agency Reference Methods 2A, 2B, 25A and 25B).
3. The vapor tightness of vapor recovery systems required by F.1 shall be determined using ~~CARB~~Air Resources Board Test Method 2-5-204.1 or shall meet the specifications for a "vapor-tight gasoline truck:" specified in 40 CFR 60.501 (in conjunction with ~~EPA~~Environmental Protection Agency Test Method 27).
4. The test method required by the Air Resources Board for the annual certification of cargo tanks is Air Resources Board Test Procedure 204.1. To receive an annual Air Resources Board

certification, cargo tanks operating in the State of California shall meet the requirements of the Air Resources Board Test Procedure 204.1. The United States Department of Transportation requires annual leakage tests of cargo tanks pursuant to the provisions in Title 49 CFR 180.407(c) and (h), which may include the use of the Environmental Protection Agency Test Method 27.

5. _____ Compliance with the "leak free" and "complete drainage" requirements of Section D.2, E.2 and G.2 shall be determined by the procedures outlined in ~~CARB~~ Air Resources Board Test Method 2-6.

I. Exemptions

1. Section C of this rule shall not apply to a transfer to a gasoline storage container used exclusively for wind machines in agricultural operations.
2. Sections C.2 and C.3 of this rule shall not apply to a transfer to or from a gasoline container used to fuel implements of husbandry as defined in Division 16, Chapter 1, of the California Vehicle Code if more than 50 percent of the annual throughput for the container is used to fuel implements of husbandry. Monthly records of container throughput shall be maintained for a period of two years after the end of each calendar year and shall be made available to the District upon request.
3. Section C.2 of this rule shall not apply to a transfer to completely fill a gasoline storage container for the purpose of leak testing, provided that the transfer does not exceed 1,000 gallons.
4. Section C.3 of this rule shall not apply to mobile vehicle fueling facilities
 - a. which were purchased or for which a contract to purchase was signed prior to February 19, 1990. This exemption shall expire one year after a vapor return system (Phase II) for mobile fueling facilities is certified by the ~~CARB~~ Air Resources Board.
 - b. while being used to fuel vehicles responding to a duly proclaimed local emergency pursuant to Chapter II of the County Code.
5. Until January 1, 1992,
 - a. Section E of this rule shall not apply to gasoline bulk plants with a daily throughput less than 20,000 gallons or an annual throughput less than 3,000,000 gallons (July 1 through June 30).
 - b. To qualify for the exemption in Section I.5.a, above, the owner or operator of any gasoline bulk plant must submit a petition to the Air Pollution Control Officer not later than September 1 of each year stating:
 - 1) The maximum daily throughput and the annual throughput of gasoline at the bulk plant for the previous fiscal year (July 1 to June 30);
 - 2) The identity of all gasoline bulk plant customers who have storage containers of 250 or more gallons capacity, and the number and sizes of these storage containers; and,
 - 3) That the owner or operator does not transfer or permit the transfer of gasoline into any storage container of 250 gallons or more unless the container has a permanently installed submerged fill pipe.
 - c. To qualify for the exemption in Section I.5.a, above, the owner or operator of any gasoline bulk plant must keep records of daily bulk plant throughput. Records shall be

maintained for a period of two (2) years, and shall be made available to the District upon request.

- d. Section C.2 of this rule shall not apply to a transfer to a gasoline storage container at a motor vehicle fueling facility if all of the following conditions are true:
 - 1) The capacity of the storage container is 5000 gallons or less; and,
 - 2) The storage container receives gasoline exclusively from gasoline bulk plants that are exempt from Section E of this rule under the provisions of Section I.5.a and which satisfy the annual reporting requirements of Section I.5.b and the record keeping requirements of Section I.5.c.
 - e. Sections C.2, C.3 and C.5 shall not apply to storage containers which have capacities of 1500 gallons or less, except for those installed at retail service stations.
6. Sections C.2 and C.3 of this rule shall not apply to existing aboveground tanks at a motor vehicle fueling facility, with a calendar year throughput not greater than 5000 gallons per month or 50,000 gallons per year, until an CARB Air Resources Board-certified vapor return system of the balance type (Phase I or Phase II) for the installed tank configuration is available. This exemption shall expire one year after a vapor return system is certified. Monthly records of storage container throughput shall be maintained for a period of two years after the end of each calendar year and shall be made available to the District upon request.

7. Section C.3 of this rule shall not apply to the following:

- a. Transfer of gasoline from any storage tank into a vehicle fuel tank at any non-retail motor vehicle fueling facility where 100 percent of vehicles refueled are equipped with Onboard Refueling Vapor Recovery provided that the Phase II vapor recovery system, if previously installed, has been properly removed in a manner approved in writing by the Control Officer. Any person claiming this exemption shall maintain records of the make, model year, vehicle identification number and any other information indicating whether the vehicle is equipped with Onboard Refueling Vapor Recovery, for all vehicles refueled at such facility. These records shall be maintained on site for at least three years and be made available to the District upon request. In lieu of refueling records, the Control Officer may approve an alternative method for verifying or ensuring that only vehicles equipped with Onboard Refueling Vapor Recovery are refueled at such facility.
- b. Transfer of E85 from any storage tank into a Flexible Fuel Vehicle fuel tank at any retail service station or non-retail motor vehicle fueling facility.

J. Compliance Schedules

- 1. Except as provided in Section J.2 below, the owner or operator of any existing gasoline storage and transfer facility subject to Section C of this rule shall comply with Section C of this rule by January 17, 1990. In addition, the owner or operator shall comply with the following schedule:
 - a. Apply for Authority to Construct not later than April 17, 1989.
 - b. Complete construction not later than September 17, 1989.
 - c. Arrange for District-approved performance testing and District inspection not later than October 17, 1989.
 - d. Apply for Permit to Operate not later than November 17, 1989.

2. The owner or operator of any existing gasoline storage and transfer facility exempted under Section I.5 of this rule shall comply with this rule by January 1, 1992. In addition, the owner or operator shall apply for an Authority to Construct not later than January 1, 1991.
3. The owner or operator of any new gasoline storage and transfer facility shall comply with the provisions of this rule at the time gasoline is first stored at the facility.
4. The owner or operator of any existing gasoline storage and transfer facility shall comply with Section C.4 of this rule by October 1, 1991. For the purpose of Regulation II and Regulation VIII, installation of hold open latches shall not be considered to be a modification.
5. The owner or operator of any mobile vehicle fueling facility exempted by Section I.4 shall comply with the provisions of Section C.3 by one year from the date that a vapor return system (Phase II) for a mobile vehicle fueling facility is certified by the ~~CARB~~ Air Resources Board.
6. The owner or operator of any gasoline storage tank exempted by Section I.6 shall comply with the provisions of Section C.2 or C.3 by one year from the date that a vapor return system (Phase I or Phase II) for their tank configuration is certified by the ~~CARB~~ Air Resources Board.

APPROVED AS TO FORM:

DENNIS A. MARSHALL
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By _____
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