

PROPOSED AMENDMENT OF

Rule 214 Transfer of Gasoline into Vehicle Fuel Tanks

Staff Report

Executive Summary

The purpose of this amendment of the Placer County Air Pollution District's ("District") Rule 214, Transfer of Gasoline into Vehicle Fuel Tanks is to address comments from the U.S. EPA, to make minor changes which make the rule easier to read, and to standardize the rule into the current rule format used by the District.

Discussion

The control of gasoline emissions from the fueling infrastructure in California is a major program area of the California Air Resources Board (ARB). State concerns with gasoline vapor emissions are twofold; health risk from breathing benzene which is a component of gasoline, and the release of Reactive Organic Compounds which contribute to ozone formation in the atmosphere. Since the ARB adopted rules for gasoline emissions, in 1974, they have continually promulgating new and revised regulations which set the design and operating specifications for equipment used in the gasoline fueling infrastructure in the state. The most recent changes to ARB rules, along with exemptions to the U.S. EPA requirements on vapor recovery were the reason for changes to the District's rule in 2009.

The transfer of fuel is categorized into two processes:

- Phase I vapor recovery is the transfer of gasoline from a tank truck to the facility storage tank (implemented through District Rule 213, Gasoline Transfer into Stationary Storage Containers); and
- Phase II vapor recovery is the transfer of gasoline from the facility storage tank into a vehicle (implemented through District Rule 214, Transfer of Gasoline into Vehicle Fuel Tanks).

On April 9, 2009, the District Board approved resolution #09-04 which revised Rule 214, Transfer of Gasoline into Vehicle Fuel Tanks. The revisions provided exemptions to non-retail gasoline dispensing facilities, from the vapor recovery requirements, in which 95% or more of the vehicles refueled are On-Board Refueling Vapor Recovery (ORVR) equipped. The exemption also included retail and non-retail facilities that refuel Flexible Fuel Vehicles operating on ethanol-gasoline blend (E85) that are already equipped with ORVR. (Flexible fuel dispensers serve only Flexible Fuel Vehicles.) These vehicles are newer and equipped with onboard systems – ORVR, to collect gasoline vapors during refueling.

The resolution authorized and directed the Air Pollution Control Officer to submit the adopted rule for approval as a revision of the SIP. The rule was sent to the California Air Resources Board, April 29, 2009, to be forwarded to the U.S. EPA, on September 15, 2009, for inclusion into the District's State Implementation Plan (SIP).

In early 2012, the U.S. EPA contacted the District to discuss three areas of concern before the rule could be recommended for approval. These areas of concern were not part of the changes adopted. It should be noted that this rule was last revised on October 19, 1993, and was approved into the SIP on April 30, 1997.

Discussion of Proposed Rule 214 Changes

This discussion section is divided into three parts. The first discusses the standardizing of the rule into the current rule format used by the District. The second addresses the U.S. EPA's areas of concern. The third discusses the changes made to the rule for clarity and simplicity.

1. Standardized Rule Format

Over the last 15 years, as staff have rewritten or been required to adopt new District rules, the rules have been restructured into a new rule format. Rule 214 has been rewritten in this new format. The rule is divided into four sections, General (100), Definitions (200), Standards (300), Administrative and Requirements (400). This new rule format makes it easier to read and understand. Exhibit 1 shows the old rule with notations on where each section is in the new rule format, if it was removed and strikeouts, where specific language was changed. Exhibit 2 shows the knockout version of rule in its entirety.

2. U.S. EPA's Areas of Concern

In discussions with the U.S. EPA, the rule referenced Section 41954 of the California Health and Safety Code in what was Section A of the old rule format. U.S. EPA staff stated that referencing this section does not adequately address three issues that are of concern which are noted below. District staff made the following changes and additions. The reference to the California Health and Safety Code section was removed.

- a. "Rule 214 should cite CCR 94006 as a reference for the vapor recovery system defects". The following language, *shown in italics*, has been added.

Section 200 Definitions:

204 *Major Defect: Any defect that meets the criteria of California Code of Regulations, Title 17, Division III, Chapter 1, Subchapter 8, Article 1, Section 94006 and is listed on CARB's Vapor Recovery Equipment Defects (VRED) list or is specified within the Executive Order certifying the vapor recovery system.*

205 *Minor Defect: A defect in any gasoline dispensing equipment, which renders the equipment out of good working order but which does not constitute a major defect.*

Section 300 Standards:

301.2 *The equipment is operated and maintained without any major defects.*

304 **MAINTENANCE AND REPAIRS**

304.1 *Major Defect: No person shall operate any CARB certified vapor recovery system or any portion thereof, or CARB certified vapor recovery equipment that has a major defect.*

304.1.1 *Upon the identification of any major defect, the owner or operator shall tag "Out-of-Order" all dispensing equipment for which vapor recovery has been impaired.*

304.1.2 *Except during active repair activity, the "Out of Order" tag on the tagged equipment shall be rendered inoperable and the tag(s) shall not be removed until the equipment has been repaired, replaced, or adjusted as necessary.*

304.2 *Minor Defect: The owner/operator shall repair or replace any vapor recovery component or equipment having a minor defect within seven days, pursuant to Section 41960.2(e) of the California Health and Safety Code.*

- b. "Rule 214 should prohibit operation of a Phase II vapor recovery equipment that has liquid leaks, vapor leaks, fails to pass tests, or contains CCR 94006 defects that substantially impair effectiveness of vapor recovery equipment. Without such language a CARB certified vapor recovery system could operate with leaks or defects." The following language, *in italics*, has been added.

Section 300 Standards:

301.1.1 The vapor recovery system is operating in accordance with the applicable CARB Executive Orders, the manufacturer's specifications, and is maintained to be leak free, vapor tight, and in good working order; and

- c. "Rule 214 should require that Phase II systems have a warning posted to prohibit topping-off, which may cause spillage of gasoline. Such requirement is found under CCR 41960.4 but is not referenced or provided in Rule 214." The requirement is found under California Health and Safety Code 41960.4, not the CCR. The following language, *in italics*, has been added.

Section 300 Standards:

302 POSTING OF OPERATING INSTRUCTIONS: Each gasoline dispensing facility utilizing a Phase II system shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the station and shall include a warning that repeated attempts to continue dispensing, after the system having indicated that the vehicle fuel tank is full (topping off), is prohibited, and may result in spillage or recirculation of gasoline pursuant to California Health and Safety Code Section 41960.4.

3. Clarity and Simplicity Changes

With the changing of the rule into the new format, staff reviewed all sections and has made the following changes, thereby making the rule more clear and simple.

Sections Added

The following, shown *in italics*, were added:

Section 100 General. A new section on applicability was added.

- 101 *APPLICABILITY: The provisions of this rule shall apply to the transfer of gasoline from any stationary storage tank into any motor vehicle fuel tank.*

Section 200 Definitions. The following definition was added.

- 201 CARB CERTIFIED: A vapor recovery system, equipment, or any component thereof, for which the CARB has evaluated its performance and issued a valid Executive Order pursuant to California Health and Safety Code Section 41954. Each component of a system that is a separate CARB certified item cannot be replaced with a non-certified item or other items that are not certified for use with the particular system. Except for qualified repairs, a CARB certified component shall be as supplied by the qualified manufacturer. A rebuilt component shall not be deemed as CARB

certified unless the person who rebuilds the component is authorized by CARB to rebuild the designated CARB certified component.

Section 300 Standards. The following sections were added.

303 PROHIBITION OF SALE: A person shall not supply, offer for sale, sell, install or allow the installation of any new or rebuilt vapor recovery system or any of its components, unless the system and component are CARB certified. Each vapor recovery system and its components shall be clearly and permanently marked with the qualified manufacturer's name and model number as certified by CARB. In addition, any qualified manufacturer who rebuilds a component shall also clearly and permanently mark the corresponding information on the component.

Section 400 Administrative Requirements. The following section was added.

401 TEST METHODS: As specified in the California Health and Safety Code Section 41954(h), test methods for compliance testing for this rule shall have been adopted by the Air Resources Board and are listed in the Executive Orders for specific certified equipment.

Sections Removed

In addition to the removal of the reference California Health and Safety Code Section 41954 as discussed above, the following two sections from the old rule were removed.

“Section B: Any gasoline dispensing system subject to this Rule, installed after June 19, 1978 shall comply with the provisions of this Rule at the time of installation.”

Staff believes that it is unlikely that there is a gasoline dispensing system, installed before June 19, 1978, that is not already under permit. If there was one found, it would be required to be brought up to current standards; therefore this section is not necessary and was removed.

Section C: Gasoline dispensing equipment used to comply with the provisions of this Rule shall comply with all applicable safety, fire, weights and measures, and other applicable codes and/or regulations.

The District does not have jurisdiction over another agency's requirements, thus this section has been removed.

Fiscal Impact

The amendment of Rule 214 will not have a fiscal impact on those sites required to install Phase II vapor recovery. The changes that are being made are not going to have to change the way the District has been administering this rule.

Outreach

Agency Outreach: On December 6, 2012, District staff forwarded copies of the rule to both the U.S. EPA and CARB, for comment. On January 8, 2013, the District received a response from CARB that they had no comments. The U.S. EPA sent their response on January 11, 2013, comment on the test method language in Section 400. District staff has worked with the U.S. EPA staff and believe we have addressed their comment.

Public Outreach: A public notice, 30 days in advance was published in the Auburn Journal on January 20, 2013. Postcards were sent out to affect gasoline sources notifying them of the rule changes. The rule along with the draft staff report was available on the District's website's home page.

Analysis and Findings

The following Analysis and the subsequent Findings are intended to address the requirements set forth in the Health and Safety Code relating to the adoption of a new or amended District Rule, as well as other State statutes referenced herein.

Cost-Effectiveness of a Control Measure

California Health & Safety Code (H&S) Section 40703 requires a District to consider and make public "the cost-effectiveness of a control measure". The changes to this rule are already a requirement by state regulations. This does not change how the rule is administered. The changes into the District's standardized rule format, allowed for simplification in which sections no longer needed were eliminated, and clarifying language was added.

Socioeconomic Impact

H&S Section 40728, in relevant part, requires the Board to consider the socioeconomic impact of any new rule if air quality or emission limits are significantly affected. However, Districts with a population of less than 500,000 persons are exempted from the socioeconomic analysis. In 2011, the population of Placer County was approximately 357,000 persons. Therefore, the District is not required to consider the socioeconomic impacts of the proposed rule amendment.

California Environmental Quality Act (CEQA)

Proposed amended Rule 214 is not an activity that may cause a direct or reasonably foreseeable indirect physical effect in the environment therefore not considered a "project", as defined by Section 21065 of the California Public Resource Code and Section 15378(b)(4)&(5) of the CEQA guidelines.

According to the above conclusion, Staff finds that the proposed rule is exempt from the California Environmental Quality Act (CEQA) because 1) it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment (CEQA Guidelines §15061(b) (3)) and 2) it is an action by a regulatory agency for protection of the environment (Class 8 Categorical Exemption, CEQA Guidelines §15308). A CEQA analysis is therefore not necessary.

Findings

- A. **Necessity** – The amendment of Rule 214 is necessary in order to address and incorporate concerns noted by the U.S. EPA. These changes provide clarity and some simplifying that makes the rule easier to understand. It does not change how the District has administered the requirements under this rule.
- B. **Authority** – California Health and Safety Code, Sections 40702, 41511, and 42303 are provisions of law that provide the District with the authority to adopt this amended Rule.
- C. **Clarity** – There is no indication, at this time, that the proposed Rule is written in such a manner that persons affected by the Rule cannot easily understand them.

Rule 214, TRANSFER OF GASOLINE INTO VEHICLE FUEL TANKS

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- D. **Consistency** – The regulation is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.
- E. **Non-duplication** – The regulation does not impose the same requirements as an existing state or federal regulation.
- F. **Reference** – All statutes, court decisions, and other provisions of law used by PCAPCD in interpreting this regulation are incorporated into this analysis and this finding by reference.

Exhibit 1

RULE 214 TRANSFER OF GASOLINE INTO VEHICLE FUEL TANKS

Adopted 06-19-79

(Amended 04-21-81, 10-19-93, 04-09-09)

- A.

New Section 301

A person shall not transfer or permit the transfer of gasoline from a stationary storage container subject to the provisions of RULE 213(3.1) into any motor vehicle fuel tank of greater than 5 gallons capacity unless such transfer is made through a fill nozzle which directs the gasoline vapors displaced by the transfer through the fill nozzle to a system, CARB, certified for installation by the California Air Resources Board (CARB), that will prevent at least 95 percent by weight of such gasoline vapors from entering the atmosphere. A vapor recovery system must be certified by the CARB pursuant to Section 41954 of the Health and Safety Code.
- B.

Removed

Any gasoline dispensing system subject to this Rule, installed after June 19, 1978 shall comply with the provisions of this Rule at the time of installation.
- C.

Removed

Gasoline dispensing equipment used to comply with the provisions of this Rule shall comply with all applicable safety, fire, weights and measures, and other applicable codes and/or regulations.
- D.

New Section 202

New Section 204

 - 1.

For the purposes of this Rule, the term "gasoline" is defined as any petroleum distillate having a Reid vapor pressure of 4four pounds or greater.
 - 2.

For the purposes of this Rule, "motor vehicle" is defined as any vehicle registered with the California Department of Motor Vehicles.
- E. Exemptions
 - 1.

New Section 102.2

Transfer of gasoline from any storage tank into a vehicle fuel tank is exempt from Section (A) at any non-retail motor vehicle fueling facility where 95 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 Air Pollution Control Officer.

 - a.

New Section 102.2.1

To qualify for this exemption, the gasoline dispenser(s) must be owned and operated by the owner of the vehicle fleet and exclusively dedicated to fueling the fleet.
 - b.

New Section 102.2.1

An operator claiming this exemption shall keep a record of the make, model, model year, and vehicle identification number of all vehicles refueled at the gasoline dispensing operation. These records shall be maintained on the premises for at least five calendar years with a submittal of quarterly records to the Air District in order to demonstrate annual compliance with 95% ORVR. In lieu of refueling records, the Air Pollution 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.

April 9, 2009

New Section 102.3

2. { 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 is exempt from Section (A). E85 is defined as 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.

New Section 102.1

3. { The provisions of Section (A) shall not be subject to non-retail gasoline dispensing facilities located in that part of Placer County east of Range 8, Mount Diablo Base and Meridian.

April 9, 2009

EXHIBIT 2

RULE 214 TRANSFER OF GASOLINE INTO VEHICLE FUEL TANKS

Adopted 06-19-79

(Amended 04-21-81, 10-19-93, 04-09-09)

- ~~A. A person shall not transfer or permit the transfer of gasoline from a stationary storage container subject to the provisions of RULE 213(3.1) into any motor vehicle fuel tank of greater than 5 gallons capacity unless such transfer is made through a fill nozzle which directs the gasoline vapors displaced by the transfer through the fill nozzle to a system, certified for installation by the California Air Resources Board (CARB), that will prevent at least 95 percent by weight of such gasoline vapors from entering the atmosphere. A vapor recovery system must be certified by the CARB pursuant to Section 41954 of the Health and Safety Code.~~
- ~~B. Any gasoline dispensing system subject to this Rule, installed after June 19, 1978 shall comply with the provisions of this Rule at the time of installation.~~
- ~~C. Gasoline dispensing equipment used to comply with the provisions of this Rule shall comply with all applicable safety, fire, weights and measures, and other applicable codes and/or regulations.~~
- ~~D. 1. For the purposes of this Rule, the term "gasoline" is defined as any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.~~
- ~~2. For the purposes of this Rule, "motor vehicle" is defined as any vehicle registered with the California Department of Motor Vehicles.~~
- ~~E. Exemptions~~
- ~~2. Transfer of gasoline from any storage tank into a vehicle fuel tank is exempt from Section (A) at any non-retail motor vehicle fueling facility where 95 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 Air Pollution Control Officer.~~
- ~~a. To qualify for this exemption, the gasoline dispenser(s) must be owned and operated by the owner of the vehicle fleet and exclusively dedicated to fueling the fleet.~~
- ~~b. An operator claiming this exemption shall keep a record of the make, model, model year, and vehicle identification number of all vehicles refueled at the gasoline dispensing operation. These records shall be maintained on the premises for at least five calendar years with a submittal of quarterly records to the Air District in order to demonstrate annual compliance with 95% ORVR. In lieu of refueling records, the Air Pollution 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.~~

April 9, 2009

4. ~~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 is exempt from Section (A). E85 is defined as 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. ~~The provisions of Section (A) shall not be subject to non-retail gasoline dispensing facilities located in that part of Placer County east of Range 8, Mount Diablo Base and Meridian.~~

April 9, 2009