



**Response to Comment(s)
On Rule in Development**

Rule number: 10 CSR 10-5.220

Rule Title: Control of Petroleum Liquid Storage, Loading and Transfer

Type of rulemaking: Rule Amendment

Response to Comment(s) from Energy Petroleum Company.

Comment: Energy Petroleum Company is in agreement with the decommissioning of stage II.

However, they have concerns regarding a specific area of the proposed changes. The concern is with subsection (3)(A) limiting the size of the tank to 40,000 gallons or less, unless it meets different design criteria to control air pollution.

Energy Petroleum Company is a wholesaler with a bulk plant in St. Louis County with above ground storage tanks ranging from 20,000 to 140,000 gallons for distillates and gasoline. There are three gasoline tanks—one 20,000 gallon tank for PNL, one 20,000 gallon tank for AV gas, and one 95,000 gallon tank for NL. All gasoline tanks are complete with stage I vapor recovery.

They believe the only tank in question is the 95,000 gallon no-lead tank. The tank characteristics are:

- 22 foot x 35 foot with a capacity of 95,000 gallons;
- Constructed on site of steel, rivets and welded seams. (floating roof or seal system is not applicable due to the rivets);
- 4 inch steel pipe for vapor recovery reduced to 3 inch at the spring-loaded truck connection;
- 3 inch product line leading to 4 inch pipe at the tank, supplied by a 3 inch, 250 gallon per minute pump;
- 3 inch Morrison pressure vacuum vent;
- 20 inch emergency relief hatch made by Whessoe Varec, Model 221-20-POB1-2;
- Vapor tight tank gauging and overfill protection alarm; and
- No sampling ports.

Energy Petroleum Company is currently in the process of renewing the operating permit for the bulk plant #0141. Currently the plant is limited to no more than 120,000 gallons per month as an annual average throughput. This exemption has been applied for every year by February 1 for

more than 25 years. A 20,000 gallon daily limit is also being considered with regard to a construction permit.

Energy Petroleum Company notes the tank has been functioning properly for decades with regard to safety, air pollution control and functionality. The cost to comply with the currently proposed changes would be between \$85,000 and \$100,000 with little to no additional control of air pollution. Therefore, they request changing the current proposed rule to include tanks larger than 40,000 gallons and/or a variance with regard to their bulk plant.

Response: The department appreciates Energy Petroleum Company's support of removal of Stage II controls. Regarding the cost to comply with changes to subsection (3)(A), there are no changes to the regulatory requirements in subsection (3)(A). These requirements were already in the rule.

Response to Comment(s) from U.S. Environmental Protection Agency Region 7.

Comment: Throughout the rule, EPA recommends the department more clearly define the terms used to describe facilities and installations and to use these terms consistently throughout the rule. For example, the following terms are used, 1) installation, 2) loading installation, 3) gasoline loading installation, 4) gasoline dispensing installation, and 5) gasoline dispensing facility (GDF). EPA has included some specific examples/references in the comments below, but by no means is this a complete list of where there are potential consistency issues related to this comment.

Response: The department appreciates EPA's comments and suggestions for revisions to the rule text. As suggested, inconsistencies in terminology have been addressed throughout the rule. Other changes to the rule text made in response to individual comments will be presented following each comment.

Comment: Paragraph (1)(C)2. is titled 'Gasoline loading,' but within this paragraph's subsequent subparagraphs, the term 'loading installation,' and 'gasoline loading station' is used. EPA recommends the department use these terms consistently in this section and throughout the rule.

Response: The text in subsections (3)(B) and (4)(B) and paragraph (1)(C)2. has been revised to consistently use the term "gasoline loading installation."

Comment: In paragraph (1)(C)4., EPA requests confirmation that it is the department's intention that both of the requirements listed (as indicated by the 'and' underlined in the sentence below) apply instead of one or the other.

Subsection (3)(E) of this rule does not apply to any gasoline dispensing facility (GDF) with one thousand (1,000) gallon or smaller tank(s) and monthly throughput of less than or equal to ten thousand (10,000) gallons of gasoline through the tanks.

Response: It is department's intention that the exemption in paragraph (1)(C)4. depends on both the tank size and monthly throughput.

Comment: In paragraph (3)(C)1., EPA suggests the department provide more clarity in giving the threshold volumes for which different parts of these proposed regulations take place. The threshold in this section is greater than 500 gallons. The next threshold in (3)(C)2. Is greater than 1000 gallons. What happens for tanks with a capacity of 1,000 is not clear. EPA recommends adding the 1,000 gallon threshold to (3)(C)1, "...gasoline storage tanks with capacities from greater than five hundred (500) to one thousand (1,000) gallons unless ---."

Response: The department acknowledges that confusion may arise regarding the tank capacity thresholds in paragraphs (3)(C)1. and (3)(C)2. The rule text has been revised so paragraph (3)(C)1. applies to tank capacities greater than 500 gallons and less than or equal to 1000 gallons. Paragraph (3)(C)2. has been revised to apply to tank capacities of greater than 1000 gallons and less than 40,000 gallons.

Comment: EPA suggests the following revision to paragraph (3)(C)1.A.:

The gasoline storage tank is equipped with a submerged fill pipe, or drop tube, extending unrestricted to within six inches (6") of the bottom of the tank, and not touching the bottom of the tank, or the storage tank is equipped with a system that allows a bottom fill condition.

Response: The terms drop tube and submerged fill pipe are synonymous when used in the context of vapor recovery systems for gasoline storage tanks. Submerged fill pipe is currently defined in 10 CSR 10-6.020, while drop tube is not defined. Therefore, no changes have been made to the rule text as a result of this comment.

Comment: EPA suggests the following revision to paragraph (3)(C)5.:

This subsection does not prohibit safety valves or other devices required by government regulations or other consensus standards.

Response: Since there is no universal agreement of the meaning of consensus standard and adding that language to the rule may create confusion in rule interpretation, no changes have been made to the rule text.

Comment: EPA suggests the following revision to subparagraph (3)(D)1.C:

A copy of the vessel's current test results are kept with the delivery vessel at all times and made immediately available to the staff director, or his representative, upon request.

Response: To clarify that use of the term staff director in any Title 10, Division 10 Missouri state rule includes a designated representative of the staff director, the definitions rule, 10 CSR 10-6.020 *Definitions and Common Reference Tables*, will be modified during its next amendment to define staff director as the director of the Air Pollution Control Program of the

Department of Natural Resources, or a designated representative. No changes have been made to the 10 CSR 10-5.220 rule text as a result of this comment.

Comment: EPA suggests the following revision to paragraph (3)(D)4:

This subsection does not prohibit safety valves or other devices required by government regulations, or other consensus standards.

Response: Since there is no universal agreement of the meaning of consensus standard and adding that language to the rule may create confusion in rule interpretation, no changes have been made to the rule text.

Comment: In sub-clause (3)(E)2.A.(IV), the department references a decommissioning checklist. EPA recommends the department provide instructions on how to access the checklist if it is not included in the rule.

Response: GDFs planning to decommission their Stage II vapor recovery systems must obtain a construction permit prior to the start of decommissioning. Since instructions on accessing the checklist are provided with their construction permit, it is not necessary to detail in the rule text how to access the checklist.

Comment: In paragraph (3)(F)1. and (3)(F)2., the term ‘installation’ is used. EPA recommends the department clarify the intended installation type, i.e., gasoline dispensing facility.

Response: The text in paragraphs (3)(F)1. and (3)(F)2. has been revised to use the term “GDF.”

Comment: The language in paragraph (3)(F).1., indicates that a permit is required for those subject to subsection (3)(C) and (3)(E). EPA recommends the department also use the terms Stage I and Stage II vapor recovery systems so that it is clear that these are the systems being referenced in subsections (3)(C) and (3)(E).

Response: The language in paragraph (3)(F)1 has been revised as recommended.

Comment: EPA suggests the following revisions to subsection (3)(G):

An owner or operator shall not construct a new GDF that requires a Stage I vapor recovery system prior to obtaining a construction permit in according to paragraph (3)(G)1. of this rule. An owner or operator of an existing GDF shall not modify a vapor recovery system prior to obtaining a construction permit according to paragraph (3)(G) of this rule.

Response: The text in subsection (3)(G) has been revised as recommended.

Comment: EPA suggests the following revision to paragraph (3)(G)1.:

An owner or operator planning to construct a new GDF that requires a Stage I vapor recovery system subject to subsections (3)(C) or (3)(E) of this rule shall.

Response: The text in paragraph (3)(G)1. has been revised as recommended.

Comment: In sub-clause (3)(G)1.A.(IV)(a), the underground storage tank that is referenced in this section and that shall be covered with not less than six (6”) of soil and/or concrete” is a gross oversimplification of burial depth. Installation standards like API 1615 provide more detail depending on whether or not traffic is to go over the UST. EPA recommends adding the following to this sub-clause:

A Type I tank is an underground storage covered by either soil, asphalt, or concrete to minimum depths recommended by API Recommended Practice 1615, “Installation of Underground Petroleum Storage Systems,” or Petroleum Equipment Institute, RP100, “Installation of Underground Liquid Storage Systems.”

Response: The classification of gasoline storage tanks as Type I or Type II is not acknowledged outside the department’s Air Pollution Control Program. The classification’s origin is unclear, and it is no longer used within the program when approving construction permits for new GDFs. While serving no useful purpose, the classification introduces confusion due to conflict with the definitions of ASTs and USTs in 319.100, RSMo, and the possibility of tanks that are neither Type I nor Type II, i.e. tanks that have no portion of the shell exposed but are not covered by at least six inches of material. Therefore, subpart (3)(G)1.A.(IV)(a) has been revised to remove the reference to Type I and Type II tanks.

With the removal of Type I and Type II tank classification, EPA’s suggested rule language specifying the installation requirements is not necessary, as they are already specified in 10 CSR 26-2.019 *New Installation Requirements*.

Comment: EPA suggests the following revision to subparagraph (3)(G)1.F.:

Within thirty (30) days of completion of construction, conduct and pass pressure decay and pressure/vacuum valve tests to demonstrate compliance with the requirements of this rule.

Response: The text in subparagraph (3)(G)1.F. has been revised as recommended.

Comment: In (3)(G)2. there is a reference to gasoline dispensing installation. For consistency, EPA suggests that the term gasoline dispensing facility or GDF be used.

Response: The text in paragraph (3)(G)2. has been revised to use the term “GDF” as suggested.

Comment: In paragraph (3)(G)2., EPA recommends the department repeat the requirements for drop tubes and vapor tight gasoline [(3)(C)1.A.] and storage tank caps and fittings [(3)(C)1.B.] so that these requirements are also applicable in (3)(G)2. These requirements could be added as (3)(G)2.D through (3)(G)2.J.

Response: Paragraph (3)(G)2. addresses experimental technology for Stage I vapor recovery systems at GDFs. Adding requirements for various components is redundant since Stage I

certification includes specific equipment such as drop tubes, vapor tight caps, etc. The present language contains adequate oversight to protect St. Louis air quality since all construction permits for experimental Stage I systems require department approval. No changes have been made to the rule text.

Comment: EPA suggests the following revision to paragraph (3)(G)3:

An owner or operator of an existing GDF that is subject to subsections (3)(C) or (3)(E) of this rule shall, prior to a modification to the vapor recovery system

Response: The language suggested by EPA would require completion of all provisions in subparagraphs (3)(G)3.A.–(3)(G)3.F. before modification commences. However, only provisions in subparagraphs (3)(G)3.A. and (3)(G)3.C. are appropriate for completion prior to the commencement of the modification, and language is present in those subparagraphs requiring their prior completion. The provisions in the remaining subparagraphs cannot be fulfilled until the modification has commenced or been completed.

Comment: EPA suggests the following revisions to clause (3)(G)1.A.(III),

For gasoline storage tanks subject to paragraph (3)(C)2. of this rule, current CARB Executive Orders for the proposed Stage I vapor recovery system.

Response: The text of part (3)(G)1.A.(III) has been revised to specify the CARB executive order for the proposed Stage I vapor recovery system as suggested.

Comment: In clause (3)(G)1.A.(IV), EPA recommends defining and/or describing the term vapor processor and/or provide the CARB reference to the term vapor processor as used in Stage I controls for above ground storage tanks.

Response: As stated in a previous response, the text in part (3)(G)1.A.(IV) has been revised to remove all reference to Type I and Type II tanks, including the reference to vapor processor. Therefore, there is no need to define or describe a vapor processor.

Comment: EPA suggests the following revisions to paragraph (3)(H)1.:

Completion of construction. To obtain an operating permit after the completion of construction, pursuant to (3)(G)(1) and (3)(G)(3), the owner or operator of a GDF installation shall.

Response: Adding the references to construction permitting requirements adds complexity to the rule without enhancing clarity. The additional references also increase the likelihood of having incorrect references in subsequent amendments to the rule. Therefore, the department is not revising the text in paragraph (3)(H)1. to add the references to paragraphs (3)(G)1. and (3)(G)3.

The rule text in paragraph (3)(H)1. has been revised to use GDF in place of installation as suggested.

Comment: In subparagraph (3)(H)1.A., the testing deadlines originally in this paragraph are being proposed to be removed. EPA recommends the department include these testing deadlines if still applicable in (3)(H)1.B. of the rule.

Response: The testing deadlines in subparagraph (3)(H)1.A. have been removed because they are no longer applicable.

Comment: In subparagraph (3)(H)1.A., EPA suggests clarifying that the reference to installation is meant to be specifically for a GDF installation.

Response: The text in paragraph (3)(H)1. has been revised to use the term “GDF.”

Comment: In subparagraph (3)(H)2.A. and clause (3)(H)2.A.(II), EPA suggests clarifying that the reference to installation is meant to be specifically for a GDF installation.

Response: The text in subparagraph (3)(H)2.A. has been revised to use the term “GDF” as suggested.

Comment: In subparagraph (3)(H)1.B, EPA suggests clarifying that the reference to installation is meant to be specifically for a GDF installation.

Response: The text in subparagraph (3)(H)1.B. has been revised to use the term “GDF” as suggested.

Response to Comment(s) from Missouri Petroleum Marketers & Convenience Store Association (MPCA).

Comment: As indicated in the November 25, 2013 meeting, one of the primary “drivers” for the rulemaking is elimination of the requirement for Stage II equipment in the St. Louis area, and MPCA wholeheartedly supports this. There are, however, some remaining questions and concerns about other aspects of the proposed rule.

This email does not attempt to cover all issues discussed in the meeting in detail, nor is MPCA yet able to offer alternative wording for some of the issues discussed. Rather, MPCA asks the department to accept this email and the verbal comments made at the meeting on November 25, 2013 as an indication that there may still be some concerns with the draft proposed rulemaking, and MPCA commits to continuing our dialogue with the department so that, to the extent possible, issues of mutual interest can be resolved prior to the proposed rulemaking being submitted for publication in the Missouri Register.

MPCA will appreciate knowing what the department’s target date is for that submittal.

Response: The department appreciates MPCA’s support of the removal of Stage II requirements and MPCA’s commitment to continued dialogue throughout the decommissioning process. The department plans to address all comments received on the draft rule text during the 60-day comment period prior to filing the proposed rulemaking. The department will also address any

additional comments received during the 30-day public comment period which begins when the proposed rulemaking is published in the Missouri Register. The department plans to file the proposed rulemaking with the Secretary of State's office on March 3, 2014 for publication in the April 1, 2014 Missouri Register. If this schedule is maintained, the public hearing on the proposed rule will occur at the May 29, 2014 meeting of the Missouri Air Conservation Commission.

Comment: It is questionable whether data exists, as required by Section 640.015, RSMo, to support the assumption that continuing to require construction and operating permits in the St. Louis area protects human health and the environment better than a "non-permit" approach. That said, MPCA recognizes the administrative challenges and costs associated with persuading EPA of this.

As discussed in the meeting, there may approaches that allow for prompt repairs and decay tests, short of eliminating the permit requirements, such as requiring "notice" instead of "permission" for repairs to existing equipment. Another option (not mentioned at the meeting) would be to retain the requirement that all facilities have an operating permit, and require a construction permit for new construction, but eliminate the requirement that a "construction permit" be obtained for repairs or replacement of existing equipment.

Response: The department is open to evaluating alternate permitting procedures. We are considering the comments submitted by MPCA and others during the 60-day comment period and are developing additional rule language changes for the proposed rulemaking.

Comment: It is questionable whether data exists to justify the increased costs that would result from changing the operating permit from a 5-year to a 3-year permit. If the frequency is to be reduced, consideration should be given to reducing the cost so the net fiscal effect on tank owners is zero.

Response: When the Stage II program was in full existence, the department maintained oversight and verified compliance of properly operating equipment through biannual inspections. Due to the phase out of the State II program, the department plans to inspect facilities with Stage I equipment a maximum of once a year. Because St. Louis is an ozone nonattainment area, the department still needs to maintain oversight and therefore is increasing the frequency of operating permit renewal and its commensurate testing. This frequency allows the department to monitor the impacts to air quality and ensure the St. Louis area is regulated as strictly as the rest of the state.

In addition, facilities outside the St. Louis area subject to 40 CFR 63, subpart CCCCCC are currently required to perform pressure decay and P/V valve tests every three years. Revising the frequency of operating permit renewal for St. Louis area GDFs from five years to three years will standardize testing requirements for GDFs statewide. Based on past activity, the majority of facilities currently undergo construction activities within their five-year operating permit period, which necessitates testing and issuance of a new operating permit sooner than the current 5-year plan.

With regard to the net fiscal effect on owners or operators of GDFs in the St. Louis area, the savings resulting from elimination of the Stage II control requirements will more than offset any additional testing costs that may be incurred by facilities switching from a five year to a three year schedule.

Comment: If the requirement for a construction permit is retained for repairs and equipment replacement, MPCA suggests more specific language be added to the rule regarding the “15-foot rule of thumb.”

Response: Current distance requirements are in a policy memorandum dated February 19, 2004. At present, twelve out of five hundred thirty-four decommissioned GDFs have capped vapor lines at the tanks during decommissioning, therefore, active vapor recovery lines remain at the underground storage tanks. In addition, many facilities maintain underground vent lines to their canopies. These possible emissions points, along with the possibility of future construction activities at these sites, require continuation of the distance requirements, either by policy or codification in the rule. The department will consider this comment and the associated issue to determine whether additional changes are necessary to the rule language in the proposed rulemaking.

Comment: The current rule 5.220 appears to be silent on permit fees. The proposed new rule specifies \$100 for each construction permit and \$100 for each operating permit. After this rule is enacted, will St. Louis County also be charging their own, additional fees for construction and operating permits, as they apparently are doing now?

Response: At present, owners or operators of GDFs are paying a \$100 fee for each construction permit and each operating permit. The draft rule language merely codifies this fee structure so it will agree with current permitting practices. Codifying the fee structure has the advantage of fixing the fees at \$100, which could only be changed by a rulemaking. This would provide opportunity for public and stakeholder input prior to incorporating a fee change.

The total amount paid for each construction or operating permit is currently \$100 and would remain at \$100, regardless of which regulatory agency collects the fee. If St. Louis County collects the fee, they are collecting it as a representative of the department and cannot charge their own permitting fee.

Comment: A rule change that would force existing aboveground storage tanks (ASTs) larger than 1,000 gallons in the St. Louis non-attainment area to go out of business is probably neither necessary nor prudent. Instead, MPCA suggests the department consider amending the rule language to prohibit the installation of new ASTs; this obviously would prevent any new ozone sources of this type without adversely affecting existing businesses.

Response: The amendment to 10 CSR 10-5.220 will only codify the existing prohibition of ASTs greater than 1000 gallons located at GDFs and that contain gasoline. The prohibition does not apply to:

- ASTs at bulk (distribution) facilities; and

- ASTs greater than 1000 gallons that contain liquids other than gasoline such as diesel, kerosene, E85, etc.

The revised rule allows for ASTs less than or equal to 2000 gallons used exclusively for the fueling of agricultural equipment.

The department is not aware of existing ASTs at GDFs in the St. Louis nonattainment area that are rated at greater than 1000 gallons which contain gasoline. In the event there are existing ASTs of this type, they would be considered noncompliant with the current rule and the revised rule. It is not the department's intention to cause these types of facilities to go out of business. Therefore, if there are existing noncompliant systems, the department will work with the owners or operators of any such facilities to attain compliance at their sites.

Comment: As discussed, questions remain about the vent requirements for tanks from 500 to 1,000 gallons capacity, and about the EVR requirements on tanks from 1,000 to 40,000 gallons. MPCA appreciates that the department is attempting to provide some flexibility in the rule, and the proposed language may solve most or all of these issues. However, further discussion and clarification is needed on this point.

Response: As established in the stakeholder meeting with MPCA on November 25, 2013, the overwhelming majority of tanks at GDFs are in the 1,000 gallon to 40,000 gallon range with virtually no tanks in the 500 to 1,000 gallon range. Therefore, the problem of tank vacuum experienced at high-throughput GDFs that have decommissioned Stage II systems appears to be confined to the large-capacity tanks. The department is not aware of any venting issues for the small-capacity tanks. The venting problem for the large-capacity tanks at high-throughput GDFs is addressed in the suggested rule language by allowing deviation from the approved Stage I vapor recovery equipment with department approval, and contingent on maintaining the 98% collection efficiency during gasoline transfer into the tank. The 98% collection efficiency requirement is present in the current rule and will remain unchanged in the revised rule in order to continue being protective of air quality in the St. Louis area. Since the solution to the tank vacuum problem is not yet known, the suggested rule language allows the greatest flexibility in implementing a solution and will satisfy EPA requirements for no increase in emissions by maintaining the 98% collection efficiency.

Comment: As it relates to ASTs, clarification is needed on whether there is equipment on the market that meets both the proposed rule and fire/safety requirements. MPCA suggests that eliminating the requirement that p/v vents be "CARB-certified" may solve this problem.

Response: The current rule requires use of CARB-certified or MO/PETP-approved P/V valves for storage tanks with capacities greater than five hundred gallons. With the elimination of MO/PETP, the draft rule text specifies use of CARB-certified P/V valves for storage tanks with capacities greater than five hundred gallons. There is equipment on the market for control of gasoline emissions from ASTs, but any ASTs in the St. Louis area are outside the scope of the current rule and the revised rule, so eliminating the requirement for P/V vents to be CARB-certified is not needed. However, there are currently two EVR systems for ASTs on the CARB website. They can be found at <http://www.arb.ca.gov/vapor/eo-astphasei.htm>.

Comment: As it relates to underground storage tanks, (USTs), the questions/concerns relate to tanks greater than 1,000 gallons in capacity; MPCA understands from yesterday’s discussion there are five “EVR systems” the department believes would satisfy the department’s proposed rule. MPCA needs to know what those systems are and specifically, what p/v vent is required as part of those five systems. As an alternative, consideration should be given to eliminating the “vacuum spec” altogether for UST vents, as there does not seem to be any data to indicate that a vacuum specification enhances air quality.

Response: The draft rule text relies on CARB certification of Stage I vapor recovery systems in the absence of MO/PETP. CARB has certified five Stage I vapor recovery systems that satisfy the rule requirements for 98% efficiency during gasoline transfer. The five systems are:

Description	CARB Executive Order	Link to CARB Executive Order
Franklin Fueling Systems Phil-Tite Phase I Vapor Recovery System	VR-101-N	http://www.arb.ca.gov/vapor/eos/eo-vr101/eo-vr101.htm
OPW Fueling Components Phase I Vapor Recovery System	VR-102-M	http://www.arb.ca.gov/vapor/eos/eo-vr102/eo-vr102.htm
Franklin Fueling Systems EBW Phase I Vapor Recovery System	VR-103-G	http://www.arb.ca.gov/vapor/eos/eo-vr103/eo-vr103.htm
CNI Manufacturing Phase I Vapor Recovery System	VR-104-G	http://www.arb.ca.gov/vapor/eos/eo-vr104/eo-vr104.htm
EMCO Wheaton Retail Phase I Vapor Recovery System	VR-105-C	http://www.arb.ca.gov/vapor/eos/eo-vr105/eo-vr105.htm

All five CARB-certified Stage I systems specify either a Husky 5885 P/V valve or a Franklin Fueling Systems PV-Zero P/V valve. The Husky 5885 is the only EVR P/V valve currently approved by MO/PEPT for use in the nonattainment/maintenance areas in Missouri.

Eliminating the vacuum specification on P/V valves would have a negative impact on air quality. With no vacuum control, intake of ambient air into the storage tank would be unrestricted. The ingested air would then become saturated with gasoline vapors and would lead to more frequent venting of the tank under pressure.

Comment: MPCA and the regulated community looks forward to continuing to work and meet with the department and other interested parties as the department moves toward formally proposing air pollution rules sometime in the first half of 2014.

Response: The department appreciates the assistance and input provided by MPCA and the regulated community.

Comment: MPCA appreciates that the department is moving forward with rule changes to eliminate the requirement for Stage II vapor recovery equipment in the St. Louis area. MPCA is fine with eliminating the St. Louis Vapor Advisory Group.

Response: The department appreciates MPCA's support of removal of Stage II controls and elimination of the St. Louis Vapor Recovery Advisory Group.

Comment: Will the Designated Employee Program disappear after decommissioning is complete?

Response: The Designated Employee Program is part of the Stage II requirements of the rule and will no longer be needed once the Stage II requirements are removed. Therefore, the draft rule text has removed all references to a designated person.

Comment: Is the department proposing to eliminate all references to MO/PETP from this rule? (If so, the term should also be eliminated from the Definitions section of the rule, (2)(F).)

Response: The draft rule text removes all references to MO/PETP, including the reference in (2)(F), and relies on CARB certification of Stage I vapor recovery systems. The majority of MO/PETP is dedicated to administration of Stage II vapor recovery systems. With the removal of Stage II systems, the need for MO/PETP is vastly reduced, and reliance on CARB for certification of Stage I systems is a logical and economic alternative.

Comment: Does the department also plan changes to the KC area rule?

Response: The department is not changing Kansas City's vapor recovery rule, 10 CSR 10-2.260 *Control of Petroleum Liquid Storage, Loading and Transfer* at this time. The main impetus of the current rulemaking to 10 CSR 10-5.220 is to remove Stage II controls from the St. Louis ozone nonattainment area in response to EPA's widespread use rule. The Kansas City rule contains no Stage II requirements that need to be addressed; therefore there is no urgent need to amend the rule. This does not preclude a future rulemaking to amend 10 CSR 10-2.260 if needed.

Comment: Is this rulemaking intended to make the department's St. Louis rule "match" EPA's Subparts BBBB and CCCCC rules? (It is MPCA's understanding that DNR has not heretofore changed any of its rules in response to EPA's 6B and 6C rules, correct?)

Response: This rulemaking is not intended to make 10 CSR 10-5.220 match 40 CFR 63, subpart BBBB or 40 CFR 63, subpart CCCCC. It is intended to phase out Stage II requirements,

eliminate reliance on MO/PETP for certification of Stage I vapor recovery systems, and codify permitting requirements for Stage I systems. However, the department did review 40 CFR 63, subpart BBBBBB or 40 CFR 63, subpart CCCCCC, in order to make some requirements, such as testing timeframes, consistent statewide. Due to the nonattainment status of the St. Louis area, not everything is consistent.

In response to EPA's promulgation of 40 CFR 63, subparts BBBBBB and CCCCCC, the department amended 10 CSR 10-6.075 *Maximum Achievable Control Technology Regulations* to incorporate by reference those federal regulations. Rule 10 CSR 10-6.075 applies to the entire state, just as 40 CFR 63, subparts BBBBBB and CCCCCC apply to all sources, not just those in nonattainment areas.

Comment: How is EPA currently enforcing 6B and 6C in the rest of Missouri?

Response: The department cannot speak for EPA on the enforcement of 40 CFR 63, subparts BBBBBB and CCCCCC in Missouri. The commenter may contact EPA Region 7 at 11201 Renner Boulevard, Lenexa, Kansas 66219 for specifics on EPA's enforcement of these federal regulations.

Comment: Why would construction and operating permits still be required (under the proposed rule) in the St. Louis area? And why is the department proposing to change operating permits from 5 years to 3 years?

Response: St. Louis is currently an ozone nonattainment area and requires a State Implementation Plan (SIP) for attainment of the ozone National Ambient Air Quality Standard. The permitting program for GDFs in the St. Louis area provides key data for the SIP by allowing the department to track the number of sources, the location of the sources, and the equipment/controls used at these sources.

As explained in previous responses, the change from five years to three years for the operating permit renewal is intended to protect air quality, codify current practices in the St. Louis area, promote consistency with federal rules statewide, and insure St. Louis is regulated as strictly as the rest of the state.

Comment: Does the department still plan to do inspections of Stage I equipment in St. Louis? If so, how frequently?

Response: The department still plans to inspect Stage I equipment in the St. Louis area. The frequency of the inspections is unknown, however it will not be more than once per year for facilities found to be in compliance.

Comment: It is our understanding that CARB-certified pressure/vacuum valves (3" wcp/8" wcv) are required (and still would be required) on all USTs and ASTs >250 gallons in the state; correct? (MPCA has some comments/suggestions relative to this vent requirement that MPCA will explain at the meeting.)

Response: Part (3)(C)1.C.(III) of the present rule requires pressure/vacuum (P/V) valves on all tanks greater than 500 gallons. The P/V valve must be CARB certified and MO/PETP approved, with a cracking pressure of 3 inches of water, and a cracking vacuum of 8 inches of water. Deviation from the cracking pressure and vacuum are allowed if the owner or operator of the GDF can demonstrate that the vapor recovery system will not function properly with the specified valve.

The only change to part (3)(C)1.C.(III) in the draft rule text is the elimination of the requirement for the P/V valve to be MO/PETP approved.

Comment: Why is the department proposing to prohibit ASTs in the St. Louis area? (This is a problem.)

Response: Vapor recovery systems for ASTs were not approved under MO/PETP. Consequently there should be no ASTs over 1000 gallons in the St. Louis area, and the department was not aware that any existed. With MO/PETP being eliminated as the certifying program for vapor recovery systems, the draft rule text must codify the prohibition on ASTs to satisfy EPA requirements for no increase in emissions. See the above response to the previous question regarding this issue. Therefore, if there are existing noncompliant systems, the department will work with the owners or operators of any such facilities to attain compliance at their sites.

Comment: Please summarize what the department is proposing to change in the “Exemptions” (subsection (1)(C))

Response: The only significant change to the exemption provisions in subsection (1)(C) of the draft rule text is the elimination of the forty-five day comment period for changes to the department-supplied exemption form for gasoline loading installations. All other changes are clarifications or reformatting of existing information.

Comment: Please summarize what the department is proposing to change in the “Test methods” and “Reporting and Recordkeeping” sections.

Response: Section (5) of the draft rule text no longer requires testing of initial fueling installations and ancillary refueling installations, since those installations are no longer being regulated. In addition, the air-to-liquid test for GDFs has been eliminated since that test is specific to vacuum-assist Stage II systems, none of which exist in the St. Louis area. All other changes to the test methods section are clarifications or reformatting of existing information.

Section (4) of the draft rule text no longer requires reporting and record keeping for initial fueling installations and ancillary refueling installations since those installations are no longer being regulated. In addition, the requirement for owners of stationary storage tanks to keep and submit detailed records of gasoline transfers has been removed. These detailed records are not used by the department and their removal lessens the regulatory burden on GDFs. All other changes to the reporting and record keeping are clarifications or reformatting of existing information.

