Missouri
Department of
Natural Resources

The following comments were received on the draft rulemaking text for 10 CSR 10-5.220 Control of Petroleum Liquid Storage, Loading and Transfer.

Comment on 10 CSR 10-5.220 draft rulemaking text via letter from Energy Petroleum Company on November 25, 2013.

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.

Comments on 10 CSR 10-5.220 draft rulemaking text via email from U.S. Environmental Protection Agency (EPA) Region 7 on November 26, 2013.

1. 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.

2. 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.

3. 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) <u>and</u> monthly throughput of less than or equal to ten thousand (10,000) gallons of gasoline through the tanks.

4. 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 ---."

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

   The gasoline storage tank is equipped with a submerged fill pipe<u>, or drop tube,</u> 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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).

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

    An owner or operator ~~planning to~~ shall not construct a new GDF that requires a Stage I vapor recovery system ~~shall obtain~~ prior to obtaining a construction permit in according to paragraph (3)(G)1. of this rule. An owner or operator of an existing GDF ~~that undergoes~~ shall not modify a vapor recovery system ~~modification shall obtain~~prior to obtaining a construction permit according to paragraph (3)(G)3~~2~~. of this rule.

13. 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 ~~and will be~~ subject to subsections (3)(C) or (3)(E) of this rule shall.*

14. 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."

15. 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 ~~department requirements~~the requirements of this rule.

16. 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.

17. 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.

18. 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 ~~and undergoes~~ vapor recovery system ~~modification shall…~~

19. 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.

20. 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.

21. 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~~n~~ GDF installation shall.

22. 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.

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

24. 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.

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

Comments on 10 CSR 10-5.220 draft rulemaking text via email from Missouri Petroleum Marketers & Convenience Store Association (MPCA) on November 26, 2013.

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. 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.

For the record and as a response to the Regulatory Impact Report, here are some of MPCA's concerns:

1. 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.

2. 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.

3. 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."

4. 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?

5. 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.

6. 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.

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.

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.

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.

From discussion with the department's Air Pollution Control Program – November 25, 2013

- 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.

- Will the Designated Employee Program disappear after decommissioning is incomplete?

- 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).)

- Does the department also plan changes to the KC area rule?

- Is this rulemaking intended to make the department's St. Louis rule "match" EPA's Subparts BBBBBB and CCCCCC 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?)

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

- 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?

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

- 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.)

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

- Please summarize what the department is proposing to change in the "Exemptions" (subsection (1)(C))

- Please summarize what the department is proposing to change in the "Test methods" and "Reporting and Recordkeeping" sections.

- MPCA has a few suggestions regarding the rule language, which MPCA will give the department at the meeting or shortly thereafter.