Missouri Department of Natural Resources

Missouri Department of Natural Resources
Regulatory Impact Report
In Preparation For Proposing
Amendment 10 CSR 10-5.220

Applicability: Pursuant to Section 640.015 RSMo, "all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources…shall… be based on the regulatory impact report…." This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department "without variance."

Determination: The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.

   This rulemaking will remove the requirements for Stage II vapor recovery controls at gasoline dispensing facilities (GDFs) in the St. Louis area. Stage II systems control emissions of volatile organic compounds (VOCs) during vehicle fueling and have been an ozone-reduction measure since the late 1980s. In May 2012, the U.S. Environmental Protection Agency (EPA) determined that Onboard Refueling Vapor Recovery (ORVR) technology is in widespread use throughout the motor vehicle fleet for purposes of controlling motor vehicle refueling emissions (77 FR 28772, May 16, 2012). ORVR is an improved method of controlling the vapor displaced during refueling that is built into newer motor vehicles. ORVR makes Stage II controls obsolete, and EPA's widespread use determination allows the removal of Stage II controls if Clean Air Act anti-backsliding requirements are met to ensure air quality is not adversely impacted.

   Other items that will be addressed in the rulemaking are:

   - Certification and testing procedures for the remaining Stage I systems will use the California Air Resources Board (CARB) vapor recovery program instead of the Missouri Performance and Test Procedures (MOPETP). Stage I systems capture displaced vapors when fuel storage tanks at GDFs are loaded from delivery vessels.
   - Regulation of aboveground storage tanks (ASTs) will be clarified. MOPETP does not certify ASTs, and using CARB instead of MOPETP will require adding language to the rule to codify the prohibition of ASTs greater than 1,000 gallons.
   - Permitting provisions will be revised to address the decommissioning of Stage II systems and clarify the permitting requirements and fees for Stage I systems. The

permitting fees will remain $100 per permit but the frequency with which permits are issued will change.

2. A report on the peer-reviewed scientific data used to commence the rulemaking process.

The EPA used peer-reviewed scientific data in determining that ORVR is in widespread use throughout the motor vehicle fleet for purposes of controlling motor vehicle refueling emissions. The Department of Natural Resources has relied upon EPA's review and has not performed any additional review of scientific data in preparing these rulemakings.

3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

This rulemaking will affect all owners or operators of GDFs in the St. Louis area that are currently subject to the Stage II vapor recovery provisions of 10 CSR 10-5.220. GDFs belong to group 5541 of the Standard Industrial Classification (SIC) system and groups 447110 and 447190 of the North American Industry Classification System (NAICS).

At present there are approximately seven hundred fifty (750) GDFs in the St. Louis area using Stage II controls that will be decommissioned. These owners or operators will bear the costs to decommission their Stage II vapor recovery systems and will then benefit from the reduced maintenance costs resulting from the removal of the Stage II systems.

4. A description of the environmental and economic costs and benefits of the proposed rule.

Removal of Stage II regulations and the associated equipment is expected to provide a financial benefit to the owners and operators of GDFs equipped with Stage II equipment without negatively impacting air quality in the St. Louis area.

The Stage II equipment is unpopular among these owners and operators for several reasons:

- It requires significant initial capital expenditure for the purchase and installation of the control system;
- Maintenance of the equipment is time-consuming and expensive;
- Vehicle refueling at Stage II-equipped GDFs is cumbersome; and
- GDFs with Stage II controls located on the periphery of the St. Louis area are at a financial disadvantage to those GDFs located nearby that are not required to have Stage II controls.

EPA's estimated cost and benefits in their final rulemaking on the widespread use of ORVR, adjusted for the vapor balance equipment used at GDFs in St. Louis, show reduced maintenance costs after removal of Stage II controls for a typical GDF with five (5) dispensers and ten (10) nozzles of $1601 per year, after an initial cost of $379 in the first year. The department will provide a fiscal note with the proposed rulemaking detailing the cost calculations and assumptions used to generate the costs.

The costs savings for GDFs removing Stage II vapor recovery systems does not come at the expense of air quality in the St. Louis area. A technical analysis, conducted in accordance with EPA guidance, shows removal of Stage II controls will not adversely affect St. Louis air quality and satisfies all Clean Air Act requirements for removal of emission control measures from the St. Louis area.

5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

   Testing and oversight of the phase out process will be performed by existing department staff. No additional implementation and enforcement costs are expected.

   State revenue will be impacted to the extent that operating permits, and their associated one hundred dollar ($100) fee, will be renewed on a three (3) year basis instead of the present five (5) years to align the state rule with the federal regulation for GDFs (40 CFR 63, Subpart CCCCCC). There will also be a one (1)-time construction permit, and the associated one hundred dollar ($100) fee, for the decommissioning of the Stage II vapor recovery system.

6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

   The technical analysis for removing Stage II controls demonstrates that ORVR is providing emission reductions for motor vehicle fueling that is equivalent to Stage II vapor recovery systems. Therefore, the environmental benefit is the same whether the Stage II equipment is retained or not.

   While there are initial costs for removing the Stage II control equipment, there is more benefit in not having to maintain this equipment since the maintenance is time-consuming and expensive. Therefore, inaction, or continuing to retain the Stage II vapor recovery systems at GDFs in the St. Louis area, would result in owners or operators continuing to devote time and money to maintain vapor recovery systems that are providing no environmental benefit.

7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

   Reliance on ORVR technology and removal of Stage II controls is the most cost effective method of controlling VOC emissions from motor vehicle fueling in the St. Louis area.

8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

The department is not aware of any alternative method for achieving the purpose of the proposed rulemakings.

9. An analysis of both short-term and long-term consequences of the proposed rule.

The short-term and long-term consequences of the proposed rulemaking are the same. VOC emissions from motor vehicle fueling will continue to be controlled with ORVR technology, and owners and operators of GDFs in the St. Louis area will have lower operating costs when their Stage II systems are decommissioned.

10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

The proposed rulemaking will not impact the control of VOC emissions from motor vehicle fueling since an equivalent level of control is achieved by the ORVR systems built into newer vehicles. VOCs are precursors to ground-level ozone, which is one of the criteria pollutants regulated under the Clean Air Act. Maintaining the VOC controls during vehicle refueling, and the subsequent control of ozone formation, benefits all residents of the St. Louis area, especially children, elderly people, and those with respiratory diseases who are more sensitive to ozone than the general population.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information.

The department has relied upon EPA's research on the role of VOC emissions in the formation of ground-level ozone, and the impact of high ozone concentrations on public health.

12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

The department is not aware of any uncertainties and assumptions that would affect the risk estimates.

13. A description of any significant countervailing risks that may be caused by the proposed rule.

The department is not aware of any countervailing risks associated with the proposed rulemakings.

14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

The department is not aware of any alternative method for achieving the purpose of the proposed rulemakings.

15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State.

Formal comments can be provided on either the Regulatory Impact Report or the draft rule text by sending them to the contact listed in question 16.

16. Provide information on how to request a copy of comments or the web information where the comments will be located.

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or

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Copies of formal comments made on either the Regulatory Impact Report or the draft rule text may be obtained by request from the contact listed above or by accessing the Rules In Development section at web site www.dnr.mo.gov/env/apcp/RulesDev.htm for this particular rulemaking.