



**Western States Petroleum Association**  
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**Frank E. Holmes**  
**Director, Northwest Region**

Electronic Submission

August 28, 2014

Ms. Jill Inahara  
Oregon DEQ  
811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

***RE: Comments Regarding Air Quality Permitting, Heat Smart, & Gasoline Dispensing Facility Proposed Updates***

Dear Ms. Inahara:

The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on DEQ's Air Quality Permitting, Heat Smart, and Gasoline Dispensing Facility proposed updates. WSPA is a trade association comprised of twenty-seven companies that explore for, produce, refine, transport and market petroleum, petroleum products and natural gas in five western states including California, Arizona, Nevada, Oregon, and Washington. WSPA members own and operate various types of facilities (e.g., oil and gas production properties, pipelines, refineries, marketing terminals, GDFs) that play an important role in the local, state and national economy. Our comments on the proposed rulemaking are identified below.

**Proposed Expansion of OAR 340-232-0110, "Loading Gasoline onto Marine Tank Vessels"**

DEQ is proposing to expand the applicability of OAR 340-232-0110 to cover the loading of all organic liquids with true vapor pressures over 1.52 psia into marine tank vessels. This change was not identified in DEQ's Public Notice Packet summary, was not discussed in any of DEQ's public meetings about the rules, and was not identified or addressed by the Fiscal Impact Advisory Committee (which in turn did not include any members of our industry). The proposed rule change substantially and adversely impacts existing activities at facilities that have been issued DEQ permits for those activities. This is because the existing air pollution control equipment for gasoline vapors cannot be applied to vapors from these other liquids; i.e., vapors from some liquids will foul the equipment. The existing infrastructure and land use permit requirements would require extensive engineering analyses for siting new control devices near the river's edge, and could potentially prohibit such controls. These types of site-specific issues are more appropriately addressed through the existing air permitting process than a blanket rule, and the existing proposal to change the applicability should include detailed technical and

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economic analyses that are available for public review. DEQ is also proposing to eliminate the option in Sections (4), (5)(b) and (5)(c) of this rule for facilities to request written approval from the Department to use an alternative testing methods from the defaults identified in the rule. Technical circumstances can dictate a need for such alternatives—i.e., see US EPA’s recent approval of alternate methods for gasoline terminals.<sup>1</sup>

For these reasons, WSPA requests that the Department remove the proposed changes in OAR 340-232-0110 that (1) expand applicability to “other volatile organic liquids with a vapor pressure greater than 10.5 kPa (kilopascals) (1.52 psia)” and (2) delete the option for facilities to request written approval from DEQ for alternative monitoring methods.

### **Other Proposed Changes**

DEQ’s 888-page Public Notice Packet stated that DEQ’s Statement of fiscal and economic impacts was available online, but the URL provided<sup>2</sup> only directed to a 13-page summary of a two-and-a-half hour meeting of the Fiscal Impact Advisory Committee, and the extent of this meeting/summary was inadequate given the extent and complexity of the proposed rule language—especially the deletion of the PSEL rule at OAR 340-222-0041, the language in OAR 340-222-0080(6) that implies that PSEL compliance will not always be determined by the methodology stated in the permit, the reworking of New Source Review in OAR 340 Division 224, and the treatment of the Columbia River Gorge National Scenic Area as a federal Class I area, which represent fundamental shifts in requirements, and which have wide-ranging, complex economic impacts that were not adequately addressed in the summary from the Fiscal Impact Advisory Committee.

WSPA also opposes the following proposed changes:

- The more restrictive definitions of Categorically Insignificant Activities (OAR 340-200-0020)—i.e., for gas/propane burning equipment < 2.0 MMBtu/hr, oil/kerosene/ gasoline burning equipment <0.4 MMBtu/hr, emergency generators, and oil/water separators handling ≥400,000 gal/yr—and corresponding additions to the list of categories requiring an ACDP (OAR 340-216-8010), which appear to have little or no benefit but increase permitting burdens;
- The requirement in OAR 340-209-0080(3) that permittees ten working days from the close of the public comment period (rather than ten working days from when DEQ provides the permittee with the comments);

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<sup>1</sup> Conniesue B. Oldham (Group Leader, Measurement Technology Group, US EPA OAQPS), letter to Thomas G. Leigh (Senior HES Professional, Marathon Petroleum Company LP – Tampa Terminal) approving the use of IR 208DC NDIR technology at named facilities as a testing alternative to the combination of Method 25B and Method 18 to measure total nonmethane gaseous organic compound emissions from gasoline loading racks, July 23, 2013; Steffan Johnson (Acting Group Leader, Measurement Technology Group, US EPA OAQPS). Letter to Mr. James R. MacNeal (Managing Partner, Pangaea Gases, LLC), approval of alternative to produce vendor certified calibration gases when protocol gases are not available (for Federal regulatory test procedures applicable to bulk gasoline terminals), May 12, 2014 (available from <http://www.epa.gov/ttn/emc/approalt/ALT105.pdf>).

<sup>2</sup> The Public Notice Packet identified the URL as <http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/AQPerm.aspx>.

- The regulation of non-stationary sources in OAR 340-210-0205; and
- The removal of emergencies as an affirmative defense (OAR 340-214-0360(1)).

### Consider Removal of Stage II Vapor Recovery

Given that DEQ is proposing to remove annual reporting requirements for small gasoline dispensing facilities, WSPA also recommends that DEQ consider proposing the removal of Stage II vapor recovery requirements as was recommended by President Obama's Office of Information and Regulatory Affairs (OIRA). OIRA described Stage II as an "outdated regulatory burden" and identified its nationwide removal as saving \$300 million.<sup>3</sup> EPA determined in 2012 that redundant technology was in widespread use and issued guidance to states for removing Stage II requirements. In the past three years, the following states have either removed their Stage II requirements or are allowing existing Stage II systems to be removed in the near future: Arizona,<sup>4</sup> Connecticut,<sup>5</sup> Georgia,<sup>6</sup> Illinois,<sup>7</sup> Maine,<sup>8</sup> Massachusetts,<sup>9</sup> Missouri,<sup>10</sup> New Hampshire,<sup>11</sup> New York,<sup>12</sup> Ohio,<sup>13</sup> Rhode Island,<sup>14</sup> Texas,<sup>15</sup> Vermont,<sup>16</sup> Virginia,<sup>17</sup> and Wisconsin.<sup>18</sup> Other states, anticipating removal, are not enforcing Stage II requirements for new and/or modified gasoline dispensing facilities: e.g. Indiana,<sup>19</sup> Maryland,<sup>20</sup> and Pennsylvania.<sup>21</sup> WSPA recommends that Oregon should remove Stage II requirements for the same reasons identified by OIRA.

Thank you for considering our comments. Please contact me at if you need additional information or have questions.

Sincerely,



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<sup>3</sup> The White House Office of the Press Secretary, "White House Announces New Steps to Cut Red Tape, Eliminate Unnecessary Regulations," May 10, 2012 (available from <http://www.whitehouse.gov/the-press-office/2012/05/10/white-house-announces-new-steps-cut-red-tape-eliminate-unnecessary-regul>).

<sup>4</sup> [House Bill 2128](#).

<sup>5</sup> [http://www.ct.gov/deep/cwp/view.asp?a=2684&q=322140&deepNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&q=322140&deepNav_GID=1619).

<sup>6</sup> <http://www.georgiaair.org/airpermit/html/mobilearea/engines/stageII.htm>.

<sup>7</sup> <http://www.epa.state.il.us/air/stage-ii-vapor-recovery-decommission.html>.

<sup>8</sup> <http://www.maine.gov/dep/air/toxics/gasoline.html#118>.

<sup>9</sup> <http://www.mass.gov/eea/docs/dep/air/community/s2edd13.pdf>.

<sup>10</sup> <http://www.dnr.mo.gov/env/apcp/vaporrecovery/decommissioningmemo.pdf>.

<sup>11</sup> <http://des.nh.gov/organization/commissioner/legal/rules/documents/env-or500.pdf>.

<sup>12</sup> [http://www.dec.ny.gov/docs/legal\\_protection\\_pdf/stage2vaprec.pdf](http://www.dec.ny.gov/docs/legal_protection_pdf/stage2vaprec.pdf).

<sup>13</sup> [http://www.epa.ohio.gov/portals/27/regs/3745-21/3745-21-09\\_Final.pdf](http://www.epa.ohio.gov/portals/27/regs/3745-21/3745-21-09_Final.pdf).

<sup>14</sup> [http://www.dem.ri.gov/pubs/regs/regs/air/air11\\_13.pdf](http://www.dem.ri.gov/pubs/regs/regs/air/air11_13.pdf).

<sup>15</sup> [https://www.tceq.texas.gov/airquality/mobilesource/vapor\\_recovery.html/#decommission](https://www.tceq.texas.gov/airquality/mobilesource/vapor_recovery.html/#decommission).

<sup>16</sup> <http://www.anr.state.vt.us/air/compliance/docs/Stage%20II%20Phase%20out%20Explanation%20Update.pdf>.

<sup>17</sup> <http://www.gpo.gov/fdsys/pkg/FR-2014-08-11/html/2014-18620.htm>.

<sup>18</sup> <http://www.gpo.gov/fdsys/pkg/FR-2013-11-04/html/2013-26134.htm>.

<sup>19</sup> [http://www.in.gov/idem/files/nrpd-air\\_036.pdf](http://www.in.gov/idem/files/nrpd-air_036.pdf).

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[http://www.mde.state.md.us/programs/Air/Documents/Enforcement Discretion Policy Memo Final 03.20.14.p df](http://www.mde.state.md.us/programs/Air/Documents/Enforcement_Discretion_Policy_Memo_Final_03.20.14.pdf).

<sup>21</sup> <http://www.pabulletin.com/secure/data/vol42/42-33/1608.html>.