State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

March 21, 2024

Rulemaking Action Item No. F

Gasoline Dispensing Facility Emissions Rulemaking

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DEQ Recommendation to the EQC

DEQ recommends that the Environmental Quality Commission:
Adopt the proposed rules in Attachment A and D as part of chapter 340 of the Oregon Administrative Rules; and

Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and

Direct DEQ to submit the State Implementation Plan revision to the U.S. Environmental Protection Agency for approval.

Language of Proposed EQC Motion:

"I move that the commission adopt the proposed rule renumbering, repeals, and amendments in Attachment A and D as part of chapter 340 of the Oregon Administrative Rules; And incorporate the rules into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; And Direct DEQ to submit the State Implementation Plan revision to the U.S. Environmental Protection Agency for approval."

Introduction

Overview

DEQ proposes to revise the rules applicable to Gasoline Dispensing Facilities found in Oregon Administrative Rules chapter 340 divisions 242 and 244. The rules are intended to reduce emissions from GDFs by requiring:

- Newly constructed facilities to install new or more effective vapor controls.
- Existing facilities to install new or more effective vapor controls when storage tanks are added or replaced.
- Specific vapor controls that will result in emissions increases change to another type of control.
- Some larger facilities to install more effective vapor controls by a specific date.

Statement of Need

What need would the proposed rule address?

Under current rules, some Gasoline Dispensing Facilities, or GDFs, are required to install and utilize what is called Stage 2 vapor recovery systems. These systems are comprised of specific types of hoses and nozzles which capture emissions generated by the dispensing of fuel into motor vehicles and return the vapor emissions back to the facility's gasoline storage tank. Current projections estimate that certain types of GDF emission control technologies will result in increased emissions by the end of calendar year 2024 due to technological changes in passenger vehicles.

Passenger vehicles manufactured on or after 2000 are equipped with Onboard Refueling Vapor Recovery systems. These ORVR systems are designed to also capture the gasoline vapor emissions during the motor vehicle refueling process. One type of Stage 2 vapor recovery system conflicts with the operation of these ORVR systems. In these instances, both ORVR and Stage 2 systems try to capture the vapor at the same time, which causes vapors to be released.

Many GDFs required to hold an air permit are not required to install equipment to control gasoline vapors. For those that are required to install control equipment, there have been developments in vapor control technology that have made some previous control systems outdated or otherwise ineffective. These technology changes are largely attributed to changes to the regulations in California that apply to these facilities by the California Air Resources Board and are referred to in the proposed rules as Stage 1 Enhanced Vapor Recovery systems.

Some rules within division 244 have been renumbered to accommodate various changes throughout the division. Some requirements have been consolidated, clarified or expanded upon while some others have become obsolete.

How would the proposed rule address the need?

The proposed rules would address the need by requiring facilities with Stage 2 vapor recovery systems incompatible with Onboard Refueling Vapor Recovery systems to change to another type of emission control.

The proposed rules would also require installation of new or more effective vapor controls in various situations. For example, a new GDF that would have not been required to install any vapor controls would be required to install a Stage 1 vapor balance system to control vapors during storage tank refilling; an existing GDF that is adding or replacing a storage tank would also have to install Enhanced Vapor Recovery systems based on their past records of dispensed fuel.

How will DEQ know the rule addressed the need?

DEQ will know that the rule has addressed the need if newly constructed GDFs submitting new permit applications indicate that vapor control equipment is installed or proposed to be installed. DEQ will also know that the rules have addressed the need when agency staff receive the required Notice of Construction applications from GDF owners or operators detailing the control equipment proposed to be installed on new or replaced storage tanks.

Based on current Oregon vehicle data and ORVR penetration of the statewide passenger vehicle fleet, making no changes to the Stage 2 vapor recovery equipment in the Portland tri-county area will result in an increase of volatile organic compound, or VOC emissions, of between 113 and 130 tons per year by the end of calendar year 2024. DEQ will know the rules have addressed the need when, by 2025, all Stage 2 systems incompatible with ORVR have been removed or replaced with ORVR compatible systems.

Rules Affected, Authorities, Supporting Documents

Lead division
Air Quality

Program or activity
Air Contaminant Discharge Permit program, Title V Operating Permit program.

Chapter 340 action

Adopt				
244-0232	244-0237	244-0241	244-0243	244-0251

Amend				
200-0040	216-0060	244-0030	244-0100	244-0200
244-0210	244-0231	244-0234	244-0238	244-0242
244-0246	244-0248	244-0250	244-0252	

Amend and Renumber			
244-0235 (renumber from 244-0239)	244-0245 (renumber from 244-0240)	244-0247 (renumber from 242-0520)	244-0249 (renumber from 244-0244)

Repeal	
242-0500	242-0510

Statutory Authority – ORS				
468A	468.020	468.065	468A.025	468A.040
468A.310	468A.315	468	468A.050	468A.070

Statutes Implemented – ORS				
468A.035	468A.135	468	468A	468A.040
468A.310	468A.025	468A.050	468A.070	

Documents relied on for rulemaking

Document title	Document location
'Div244_EVR Systems.PDF' California Air Resources Board Executive Orders for approved Stage 1 Enhanced Vapor Recovery Systems	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232
'GDF_Permits_list_PN.xlsx' Report run from the air quality permitting database 'TRAACS'. Shows the number of General ACDP GDFs.	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232
'UST_Tank_InstallDates_PN.xlsx' Gasoline storage tank installation dates from the Underground Storage Tank program.	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232
'Fiscal_Equipment_Costs_PN.xlsx' Compilation of cost estimates from various sources.	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232

Fee Analysis

This rulemaking does not involve fees. However, due to the proposed rules, some sources may fall under a different fee class. Some affected sources are currently paying the General air contaminant discharge permit, or ACDP, fee class 5; the proposed rules would move all General ACDP permitted Gasoline Dispensing Facilities under the annual ACDP fee class 4. This results in some affected sources paying a higher annual fee.

Statement of Fiscal and Economic Impact

Fiscal and Economic Impact

The proposed rules have fiscal and economic impacts on businesses, state and federal agencies, units of local governments and the public. Fiscal impacts can be positive or negative for those affected. For example, reducing health costs to the public would be a positive impact, and increasing costs of regulatory compliance for businesses would be a negative impact.

The proposed rules establish five types of GDFs, each of which is subject to different requirements and will have a different fiscal impact. The proposed rules also establish different control requirement implementation based on the status of the facility, new or existing, and throughput. Throughput is the amount of gasoline loaded into or dispensed from storage tanks at the facility. Some facilities permitted for entirely separate processes and activities also have one or more gasoline storage tanks and dispensers on site. These facilities must have applicable GDF requirements included in their permit and may also experience a fiscal impact. In most cases, requirements for these facilities include work practices, submerged fill, recordkeeping and reporting, but will not require specific equipment for vapor control.

The proposed rule changes create no new fees but do propose to modify the applicable fee structure for some facilities currently assigned to a General Air Contaminant Discharge Permit.

There are five types of GDFs established in the proposed rules. Multiple GDF types can apply to one facility based on the facility's equipment and throughput. Each type, increasing from one to five, will establish additional applicable requirements. The types are:

GDF 1: A facility that has only gasoline storage tanks with less than 250-gallon capacity.
GDF 2: A facility that has any gasoline storage tank with a capacity of 250 gallons or greater.
GDF 3: A facility that has 120,000 gallons or more of annual gasoline throughput.
GDF 4: A facility that has 600,000 gallons or more of annual gasoline throughput.
GDF 5: A facility that has 1,000,000 gallons or more of annual gasoline throughput.

For example, facility X has annual gasoline throughput of 650,000 gallons and each gasoline storage tank on site has a 10,000-gallon capacity, so the GDF 2, 3 and 4 rules would apply to this facility.

While health impacts of the proposed rules can be difficult to quantify, facilities that install more effective or initial vapor controls at their facility will likely also experience a positive impact. For example, staff with less gasoline vapor exposure will experience less exposure-related symptoms, require less medical attention (doctor office visits, etc.) and therefore are likely to attend scheduled shifts more consistently.

Breathing in high levels of benzene (a Hazardous Air Pollutant chemical found in gasoline vapors) can result in drowsiness, dizziness, rapid/irregular heartbeat, headaches, tremors,

confusion, and unconsciousness[1]. While the average consumer pumping fuel at a gas station is unlikely to be exposed to high levels of benzene, an employee at the facility regularly exposed may experience these symptoms. This could result in the employee requiring medical attention and missing work. In addition, long term exposure to benzene has a detrimental effect on the blood. Long term exposure can result in a decrease of red blood cells, anemia, excessive bleeding, and it can affect the immune system which can increase the risk of infection.

The World Health Organization states there has been no specific guideline value developed for benzene in air. Benzene is carcinogenic to humans and no safe level of exposure can be recommended.[2] DEQ's fiscal and economic impact statement has not been revised to include a dollar figure representative of the positive health impacts of these proposed rules but has included this additional health-based information for the Environmental Quality Commission's consideration.

GDF 1 and 2 facilities are expected to incur a minimal economic or fiscal impact with additional impact to GDF 3, 4, and 5 facilities. The GDF 1 and 2 facilities have minimal changes from the current rules, with no specific vapor control requirements established in addition to what has been required for several years. With the throughput thresholds established in the proposed rules, GDF facilities 3, 4, and 5 are required to install various types of vapor control equipment at different times, increasing the fiscal impact.

The following tables outline the expected fiscal and economic impact for affected facilities.

Fiscal & Economic Impact **GDF 1[3] and 2[4] Facilities**			
GDF 1		**GDF 2**	
New & Existing Facilities		**New & Existing Facilities**	
Expected Cost	$280	Expected Cost	$280
Assumptions & Information The cost estimate for this is based on an administrative or office support position hourly rate average for Oregon ($28/hr.[5]) multiplied by an estimated ten hours of time spent to review the new rules, any updated or changed permit conditions, and assessing current or planned business practices to ensure compliance.			

[1] CDC | Facts About Benzene
[2] WHO-CED-PHE-EPE-19.4.2-eng.pdf
[3] GDF1 = a facility that has *only* gasoline storage tanks that have less than a 250-gallon capacity.
[4] GDF 2 = a facility that has a gasoline storage tank with 250-gallon capacity or greater.
[5] Entry Level Office Assistant Salary in Oregon (Hourly) (ziprecruiter.com)

Number of affected sources	Unknown[6]	Number of affected sources	1,375[7]

GDF 3, 4, and 5 Impact

To determine the fiscal and economic impact of these rules, DEQ compared equipment that is currently required to be installed with the cost of the newly required components from the proposed rules. Owners and operators will install different equipment based on the facility's throughput (gallons of gasoline loaded into or dispensed from the storage tanks on site), whether the facility is new or existing, and whether a gasoline storage tank is being added or replaced.

Each existing GDF in the state has a specific number of dispensers, hoses, nozzles, storage tank vent valves, and storage tanks. To estimate the cost of these proposed changes, DEQ reviewed the number of these components that are known to be installed at facilities across the state and used the average.

Average Equipment at GDFs in Oregon	
Equipment or Component	**Average Number at a Facility**
Pressure Vacuum Vent Valves	2.29
Dispensers	6.9
Gasoline Hoses	11
Gasoline Storage Tanks	2.63

It is also important to clarify that under the current rules applicable to GDFs, different stations across the state will have different types of vapor controls installed. For example, a GDF in the Portland metro area is required to install a complete Stage I Vapor Balance system on any gasoline storage tank at or above 1,500-gallon capacity, while a facility in Bend, Oregon would need to install the same system only after exceeding 480,000 gallons of gasoline throughput (gallons of gasoline loaded into or dispensed from the storage tanks on site) in a 12-month period.

Furthermore, vapor controls at the dispensing point, known as Stage II Vapor Recovery, are required at 600,000 gallons per year but only for facilities in Clackamas, Washington, or Multnomah County. Given the relatively high variance in facility equipment and

[6] A GDF or facility that only has gasoline storage tanks less than 250-gallon capacity is most likely not subject to air permitting requirements. The current rules do not establish requirements for these facilities outside of recordkeeping and work practices and DEQ has no information regarding how many facilities have these small storage tanks.

[7] Each permitted GDF has at least one storage tank with 250-gallon or greater capacity. Number of affected facilities established by using the current number of GDF general ACDPs (1,169) and adding 15% of other air permits, which may have a storage tank and dispenser on site (206 additional facilities).

requirements across the state, the fiscal impact descriptions below also clarify how the expected cost was calculated.

GDF 3 (facility with annual throughput of 120,000 or more gallons per year)

The fiscal impact on a GDF 3 facility varies based on whether it is new or existing, and whether it is in one of several specific areas of the state. Since a GDF 3 within Clackamas, Washington, or Multnomah County, or in the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS would have likely required a complete Stage I Vapor Balance system under the current rules, the fiscal impact of the proposed rules is compared to the cost of compliance with and equipment required by, the current rules. Additional details outlining how these cost estimates were calculated are included in the table below.

1. New facility within these specific areas of the state would expect to experience a cost of approximately $560.
2. New facility outside of these specific areas of the state would expect to experience an increase in cost of approximately $7,539[8] (assuming the new facility does not exceed 480,000 gallons, at which point the difference is reduced to the $560 described above). The cost would be realized when equipment is purchased and installed.
3. Existing facility within these specific areas is expected to experience a cost of approximately $430.
4. Existing facility outside these specific areas is expected to see a cost difference of approximately $3,665[5] (assuming the existing facility does not exceed 480,000 gallons, at which point the difference is reduced to the $430 described above). The cost would be realized when a gasoline storage tank was replaced or added to the existing facility.

Number of affected sources:

- 247 total GDF 3 facilities
    - 76 GDF 3 sources within Clackamas, Washington, or Multnomah County, or in the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS
    - 171 GDF 3 sources outside of these areas

Expected reduction in VOC emissions from this change:

- 56 tons of VOC reduction statewide.
- No emissions reductions in Clackamas, Washington, or Multnomah County, or in the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS.

[8] This estimate is expected to be conservative (high) as it does not account for the cost of equipment that the facility would otherwise be purchasing in place of the Stage I Vapor Balance equipment.

GDF 3	
Impact on Permitted Businesses	**Impact on DEQ**
Install Stage I Vapor Balance equipment when facility is reconstructed, a new tank is added, or an existing tank is replaced. All new or replaced tanks must be dual point. Newly constructed facilities install dual points tanks and a complete Stage I Vapor Balance system upon startup. Time spent to review rules, permits, and assess current/proposed operations, equipment and procedures.	Existing: Slight increase in the amount of construction notices to review and process. Many facilities are already required to submit notifications when replacing or installing a new tank. New: Increase in time spent per inspection of each new GDF 3 facility in specific areas of the State (up to 0.5 hours per facility) to inspect vapor control equipment that was not previously required.

1. **[New in Clackamas, Washington, or Multnomah County, or in the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS]** A new GDF within the specific areas of the state described above would have been required to install Stage I Vapor Balance equipment under the current rules. The increased cost to these facilities is expected to be approximately 20 hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.[9]) to review the new rules, any updated or changed permit conditions, and assessing current or planned business practices to ensure compliance.

2. **[New facility outside Clackamas, Washington, or Multnomah County, or the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS]** A new GDF anywhere else in the state would have required Stage I Vapor Balance equipment at the 480,000 gallons per year throughput threshold under current rules. Assuming the new facility would remain below this level and would not have required a Stage I Vapor Balance system, the increased cost from these proposed rules includes Stage I Vapor Balance equipment ($2,205/tank X 2.63 average tanks per site = $5,799[10]); air quality testing of new vapor balance equipment ($600 for initial test and $150 for each additional test). Three tests are required for a new system installation, so the testing cost is $900; approximately 30 hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assessing current/planned business practices to ensure compliance (30 hours X $28/hr. = $540). This estimate is expected to be conservative

[9] Entry Level Office Assistant Salary in Oregon (Hourly) (ziprecruiter.com)

[10] Service provider time for equipment installation is not included. A new GDF installing storage tanks on site will only be seeing an increase in cost of the specific vapor equipment that is required to be installed; a service provider or contractor will already be required to be on site for installation of equipment.

(high) as it does not account for the cost of equipment that the facility would otherwise be purchasing in place of the Stage I Vapor Balance equipment.

3. **[Existing facilities Clackamas, Washington, or Multnomah County, or in the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS]** An existing GDF within these areas is already required to install a Stage I Vapor Balance system at 120,000 gallons/year throughput or tank capacity of 1,500+ gallons, which is every facility in this scenario. These systems are required to conduct two initial tests upon installation under the current and proposed rules, but the proposed rules establish one additional test ($600 for initial test and $150 for each additional test) so the cost increase is $150. It is also expected that the owner/operator will need to spend approximately 10 hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.[11]) to review the new rules, any updated or changed permit conditions, and assess current/planned business practices to ensure compliance ($28/hr. X 10 hours = $280).

4. **[Existing facility outside Clackamas, Washington, or Multnomah County, or the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS]** A GDF 3 facility in this scenario only incurs the following costs if they had previously remained below 480,000 gallons per year. A facility that had exceeded 480,000 gallons per year already required a Stage I Vapor Balance system and their fiscal impact would be most appropriately reflected in number 3 above. Under the proposed rules, these facilities are required to install a Stage I Vapor Balance system when the facility is reconstructed or when a gasoline tank is newly added, or an existing gasoline tank is replaced. Most facilities will incur this cost when a tank is added or replaced. The expected cost for a single tank replacement includes the Stage I Vapor Balance equipment ($2,205/tank X 1 tank = $2,205); Three compliance tests ($600 for initial test and $150 for each additional test = $900); approximately 20 hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assessing current/planned business practices to ensure compliance (20 hrs. X $28/hr. = $560). This estimate is expected to be conservative (high) as it does not account for the cost of equipment that would otherwise be installed in place of the Stage I Vapor Balance equipment.

GDF 4 (facility with annual throughput of 600,000+ gallons per year)

The fiscal impact on a GDF 4 facility varies based on whether it is new or existing and whether it is/would be subject to the current Stage II Vapor Recovery rules under Oregon Administrative Rules chapter 340 division 242 (in Clackamas, Washington, or Multnomah County with 600,000+ gallons of annual throughput). Further, the fiscal and economic impact varies based on whether a facility has a Stage II Vapor Recovery system that is

[11] Entry Level Office Assistant Salary in Oregon (Hourly) (ziprecruiter.com)

compatible or not with a motor vehicle's ORVR system. A facility in one of these three counties would have required a complete Stage II Vapor Recovery system under the current rules, the fiscal impact of the proposed rules is compared to the cost of compliance with, and equipment required by, the current rules. Additional details outlining how these cost estimates were calculated are included in the table below.

1. New facility inside these three counties is expected to see a cost savings of approximately $12,089.
2. New facility outside these three counties is expected to see an increased cost of approximately $6,123.
3. Existing facility inside these three counties with an incompatible Stage II Vapor Recovery system:
    a. Decommissioning Stage II and installing Stage I EVR is expected to see a cost of approximately $14,533.
    b. Switching the Stage II system to a type compatible with ORVR is expected to see an increase of approximately $8,957.
4. Existing facility inside these three counties with a compatible Stage II Vapor Recovery system is expected to see an increase of approximately $560 (if the owner or operator elects to maintain their current equipment) to $15,283 (if the owner or operator elects to decommission the Stage II Vapor Recovery equipment and install Stage I EVR).
5. Existing facility outside these three counties is expected to see an increase of approximately $3,871 when a gasoline storage tank is added or replaced (+$1,126 per additional tank added/replaced).

Number of affected sources:

- 463 total GDF 4 facilities
    - 154 GDF 4 sources in Clackamas, Washington, or Multnomah County with incompatible Stage II Vapor Recovery equipment;
    - 166 GDF 4 sources in Clackamas, Washington, or Multnomah County with compatible Stage II Vapor Recovery equipment; and
    - 143 GDF 4 sources in the rest of the State.

Expected reduction in VOC emissions from this change:

- 270 tons of VOC reduction statewide from all GDF 4 facilities.

GDF 4	
Impact on Permitted Businesses	**Impact on DEQ**
Existing: Install dual point Stage I Enhanced Vapor Recovery system on each new, replaced, or reconstructed gasoline storage tank with 250 gallon or greater capacity.	Minor increase in administrative work. Facilities were already required to submit construction notifications, but review/approval will take additional time to review for required equipment.

Install Enhanced Conventional (ECO) nozzles on all gasoline dispensers when Stage I EVR system is required. Remove/cap Stage II Vapor Recovery systems that are incompatible with ORVR. Time spent to review rules, permits, and assess current operations, equipment and procedures.	
New: Install dual point Stage I EVR system on all gasoline storage tanks with 250 gallon or greater capacity. Install ECO nozzles on all gasoline dispensers. Time spent to review rules, permits, and assess current/proposed operations, equipment and procedures.	Slight increase in new permit application processing time to review and approve proposed equipment

1. **[New facility in Clackamas, Washington, or Multnomah County]** These facilities would install Stage I EVR systems instead of a Stage II Vapor Recovery system ($12,375 (Stage II system) - $3,331 (Stage I EVR system) = savings of $9,044); Initial compliance testing in some cases would include one additional test @ $150 after the two required by current and proposed rules; ECO nozzles = $305 savings per nozzle/hose with 11 nozzles per facility average = $3,355 savings; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assessing current/planned business practices to ensure compliance (20 hrs. X $28/hr. = $560).

2. **[New facility outside Clackamas, Washington, or Multnomah County, or the Portland AQMA, Medford AQMA, or Salem-Keizer SKATS]** These facilities, under current rules, had to install a complete Stage I Vapor Balance system but would now be required to install a Stage I EVR system (Stage I EVR system ($3,331) minus Stage I Vapor Balance ($2,205) = $1,126 increased cost X 2.63 tanks = $3,378); Initial compliance testing would include one additional test @ $150 from what is currently required; ECO nozzles are required compared to conventional nozzles ($185 more for ECO nozzles compared to conventional nozzles X 11 average nozzles per facility = $2,035; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) spent to review the new rules, any updated or changed permit conditions,

and assessing current/planned business practices to ensure compliance (20 hrs. X $28/hr. = $560).

3. **[Existing facility inside Clackamas, Washington, or Multnomah County with an incompatible Stage II system]** These sites, with an ORVR incompatible Stage II system will be required to remove, cap or otherwise decommission the Stage II equipment and install a Stage I EVR system **OR** switch to an ORVR-compatible Stage II Vapor Recovery system.

- **Remove Stage II and Install Stage I EVR**: If a facility has all dual point storage tanks on site, they will have the option to decommission the Stage II system and install Stage I EVR and ECO nozzles. Capping the vapor lines associated with the Stage II system is expected of most facilities ($2,000); The Stage I EVR system is required on gasoline storage tanks with over a 250-gallon capacity (Stage I EVR equipment @ $3,331 X 2.63 tanks = $8,761); Stage II hanging hardware to ECO nozzles and conventional hoses is a savings per nozzle/hose of $305. Since not all hanging hardware will be at end of life, the cost estimate assumes 1/3 of hoses/nozzles are ready for replacement between rule adoption and nozzle installation ($305 saved on 3.66 nozzles and $570 spent on 7.33 nozzles = $3,062); One additional test is required @ $150; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).
- **Switch to ORVR-compatible Stage II**: If a facility has one or more single point tanks that are not feasible to have Stage I EVR systems installed, the site will most likely elect to switch the current Stage II system to one that is compatible with ORVR. These sites would maintain all current Stage I Vapor Balance equipment on site as-is (no cost/change). Installation of a different type of Stage II system would require initial testing (3 tests) but current rules require incompatible Stage II systems to conduct two tests annually. One additional test is a $150 increase from current expected expenses. Since not all hanging hardware will be at end of life, the cost estimate assumes 1/3 of hoses/nozzles are ready for replacement between rule adoption and hose/nozzle installation ($170 savings on 3.66 nozzles and $710 spent on 7.33 nozzles; no change/cost on 3.66 hoses and $500 spent on 7.33 hoses = $4,582 spent on nozzles and $3,665 spent on hoses; $8,247). Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).

4. **[Existing facility inside Clackamas, Washington, or Multnomah County with a compatible stage II system]** These facilities, under the proposed rules are allowed to continue operating their current stage II system as they have been. Operation of their existing equipment with no required equipment changes has no

fiscal impact. However, it is expected that an owner/operator will need to account for twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).

- If a facility has all dual point storage tanks on site, they will have the option to decommission the Stage II system and install Stage I EVR and ECO nozzles. Capping the vapor lines associated with the Stage II system is expected of most facilities ($2,000); The Stage I EVR system is required on gasoline storage tanks with over a 250-gallon capacity (Stage I EVR equipment @ $3,331 X 2.63 tanks = $8,761); Stage II hanging hardware to ECO nozzles and conventional hoses is a savings per nozzle/hose of $305. Since not all hanging hardware will be at end of life, the cost estimate assumes 1/3 of hoses/nozzles are ready for replacement between rule adoption and nozzle installation ($305 saved on 3.66 nozzles and $570 spent on 7.33 nozzles = $3,062); Three compliance tests ($600 for initial test and $150 for each additional test = $900); Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560)

5. **[Existing facility outside Clackamas, Washington, or Multnomah County]** A facility in this situation would have been required to have a complete Stage I Vapor Balance system. The owner or operator will be required to install a Stage I EVR system on each new or replaced gasoline tank with 250+ gallon capacity and ECO nozzles for each gasoline dispenser when an EVR-equipped tank is installed. Stage I EVR components are $3,331 – stage I components $2,205 = $1,126 increase. ECO nozzles are required compared to conventional nozzles ($185 more for ECO nozzles X 11 average nozzles per facility = $2,035. Three compliance tests will be required when the tank is installed, but the current rules would have required two of them. The cost of each subsequent test after the initial scheduled test and service provider visit cost is $150. Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).

GDF 5 (facility with annual throughput of 1,000,000+ gallons per year)

The fiscal impact on a GDF 5 facility varies based on whether it is new or existing, and whether it is/would be subject to the current Stage II Vapor Recovery rules under Oregon Administrative Rules chapter 340 division 242 (in Clackamas, Washington, or Multnomah County with 600,000+ gallons of annual throughput). Further, the fiscal and economic impact varies based on whether a facility has a Stage II system that is compatible or not with a motor vehicle's ORVR system. A facility in one of these three counties would have required a complete Stage II Vapor Recovery system under the current rules, the fiscal

impact of the proposed rules is compared to the cost of compliance with, and equipment required by, the current rules. Additional details outlining how these cost estimates were calculated are included in the table below.

1. New facility inside these three counties is expected to see a cost **savings** of approximately $11,889.
2. New facility outside these three counties is expected to see an increased cost of approximately $6,123.
3. Existing facility inside these three counties with an incompatible Stage II Vapor Recovery system:
    a. Decommissioning Stage II and installing Stage I EVR is expected to see a cost of approximately $14,533.
    b. Switching the Stage II system to a type compatible with ORVR is expected to see an increase of approximately $8,957.
4. Existing facility inside these three counties with a compatible Stage II system is expected to see a cost of approximately $560 (if the owner or operator elects to maintain their current equipment to the extent possible through 12/31/2029) and up to $15,283[12] (by 12/31/2029; this estimate is reduced by $3,331 per single point tank at the facility).
5. Existing facility outside these three counties is expected to see an increased cost of approximately $3,871 per storage tank replaced (+$1,126 per additional tank) up to $12,771[10] (if all Stage I EVR equipment and ECO nozzles are purchased/installed at the same time; this estimate is reduced by $3,331 per single point tank at the facility).

Number of affected sources:

- 546 GDF 5 facilities statewide.

Expected reduction in VOC emissions from this change:

- 292 tons of VOC reduction statewide from all GDF 5 facilities.

Impact on Permitted Businesses	Impact on DEQ
Existing: Install Stage I Enhanced Vapor Recovery system on each dual point gasoline storage tank with 250 gallon or greater capacity by 12/31/2029. Install dual point Enhanced Vapor Recovery on each new or replaced gasoline storage tank with 250 gallon or greater capacity.	Staff time to process additional construction notifications for these facilities.

[12] Based on available Underground Storage Tank program storage tank data, it is likely that 1,375 of 1,631 tanks are single point. Therefore, this cost estimate is very conservative and represents a small minority of facilities.

Install ECO nozzles on all gasoline dispensers by 12/31/2029 unless in Stage II Vapor Recovery gasoline service. Remove/cap Stage II Vapor Recovery systems that are incompatible with ORVR or change to ORVR-compatible Stage II. Time spent to review rules, permits, and assess current operations, equipment and procedures.	
New: Install dual point Enhanced Vapor Recovery systems on each gasoline storage tank with 250 gallon or greater capacity. Install ECO nozzles on each gasoline dispenser. Time spent to review rules, permits, and assess current/proposed operations, equipment and procedures.	Slight increase in new permit application processing time to review and approve proposed equipment

1. **[New facility inside Clackamas, Washington, or Multnomah County]** These facilities would install Stage I EVR systems instead of a Stage II Vapor Recovery system ($12,375 (Stage II system) - $3,331 (Stage I EVR system) = savings of $9,044); Initial compliance testing in some cases would include one additional test @ $150 after the two required by current rules; ECO nozzles = $305 savings per nozzle/hose with 11 nozzles per facility average = $3,355 savings; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assessing current or planned business practices to ensure compliance ($560).

2. **[New facility outside Clackamas, Washington, or Multnomah County]** These facilities, under current rules, had to install a complete Stage I Vapor Balance system but would now be required to install a Stage I EVR system (Stage I EVR ($3,331) minus Stage I Vapor Balance ($2,205) = $1,126 increased cost X 2.63 tanks = $3,378); Initial compliance testing would include one additional test @ $150 from what is currently required; ECO nozzles are required compared to conventional nozzles ($185 more for ECO nozzles X 11 average nozzles per facility = $2,035; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assessing current/planned business practices to ensure compliance ($560).

3. **[Existing facility inside Clackamas, Washington, or Multnomah County with an incompatible Stage II system]** These sites, with an ORVR incompatible Stage II system will be required to remove, cap or otherwise decommission the Stage II equipment and install a Stage I EVR system or switch to an ORVR-compatible Stage II Vapor Recovery system.

- **Remove Stage II and Install Stage I EVR**: If a facility has all dual point storage tanks on site, they will have the option to decommission the Stage II system and install a Stage I EVR system and ECO nozzles. Capping the vapor lines associated with the Stage II system is expected of most facilities ($2,000); The Stage I EVR system is required on gasoline storage tanks with over a 250-gallon capacity (Stage I EVR equipment @ $3,331 X 2.63 tanks = $8,761); Stage II hanging hardware to ECO nozzles and conventional hoses is a savings per nozzle/hose of $305. Since not all hanging hardware will be at end of life, the cost estimate assumes 1/3 of hoses/nozzles are ready for replacement between rule adoption and nozzle installation ($305 saved on 3.66 nozzles and $570 spent on 7.33 nozzles = $3,062); One additional test is required @ $150; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).
- **Switch to ORVR-compatible Stage II**: If a facility has one or more single point tanks that are not feasible to have Stage I EVR systems installed, the site will most likely elect to switch the current Stage II system to one that is compatible with ORVR. These sites would maintain all current Stage I Vapor Balance equipment on site as-is (no cost/change). Installation of a different type of Stage II system would require initial testing (3 tests) but current rules require incompatible Stage II systems to conduct two tests annually. One additional test is a $150 increase from current expected expenses. Since not all hanging hardware will be at end of life, the cost estimate assumes 1/3 of hoses/nozzles are ready for replacement between rule adoption and hose/nozzle installation ($170 savings on 3.66 nozzles and $710 spent on 7.33 nozzles; no change/cost on 3.66 hoses and $500 spent on 7.33 hoses = $4,582 spent on nozzles and $3,665 spent on hoses; $8,247). Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance (20 hours X $28/hr. = $560).

4. **[Existing facility inside Clackamas, Washington, or Multnomah County with a compatible Stage II system]** The owner or operator of this facility will have the option to retain their existing Stage II Vapor Recovery and Stage I Vapor Balance equipment until 12/31/2029, at which point all dual point tanks will need to install a Stage I EVR system. Some facilities may elect to cap, remove, or otherwise decommission the Stage II Vapor Recovery equipment sooner, at which point the Stage I EVR equipment would be required. A new or replaced gasoline storage

tank will also be required to install Stage I EVR equipment. When this cost is incurred is therefore somewhat at the discretion of the owner or operator but no later than 12/31/2029 for dual point tanks. Single point tanks are not required to convert to dual point or be replaced with a dual point tank; these tanks are required to operate the currently required Stage I Vapor Balance systems until the tank is replaced. Cost estimates include as assumption that most facilities will elect to operate their existing equipment to the extent possible which includes twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance ($560).

- For a facility that is electing to decommission their compatible stage II system or doing so leading up to the proposed 12/31/2029 deadline, the expected costs include $2,000 for capping of the Stage II system vapor lines; Stage I EVR system @ $3,331 X 2.63 tanks = $8,761; Stage II hanging hardware to ECO nozzles/hoses is a savings per nozzle of $305. Since not all hanging hardware will be at end of life, the cost estimate will assume 1/3 of nozzles are ready for replacement between rule adoption and nozzle installation ($305 saved on 3.66 nozzles/hoses and $570 spent on 7.33 nozzles/hoses = $3,062); Three compliance tests ($600 for initial test and $150 for each additional test = $900); Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance ($560).

5. **[Existing facility outside Clackamas, Washington, or Multnomah County]** A facility in this situation would have been required to have a complete Stage I Vapor Balance system. The owner or operator will be required to install a Stage I EVR system on each new or replaced gasoline tank with 250+ gallon capacity and ECO nozzles for each gasoline dispenser when the new tank is installed; the owner or operator will be required to have a complete Stage I EVR system on each dual point tank and ECO nozzles by no later than 12/31/2029. Single point tanks are not required to convert to dual point or be replaced with a dual point tank; these tanks are required to operate the currently required Stage I Vapor Balance systems until the tank is replaced.

- For a facility that installs a new or replaced tank: Stage I EVR components are $3,331 minus Stage I Vapor Balance components $2,205 = $1,126 increase in cost. ECO nozzles are required compared to conventional nozzles ($185 more for ECO nozzles X 11 average nozzles per facility = $2,035). Three compliance tests will be required when the tank is installed, but the current rules would have required two of them. The cost of each subsequent test after the initial scheduled test and service provider visit cost is $150. Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance ($560).
- For a facility that keeps all equipment as-is until required to install Stage I EVR and ECO nozzles by 12/31/2029, the cost estimate includes purchase and installation of Stage I EVR equipment ($3,331 X 2.63 tanks = $8,761); ECO

nozzles @ $250 each X 11 nozzles = $2,750; Three compliance tests required ($600 for initial and $150 for each subsequent) is $900; Twenty hours of administrative or office support position time (hourly rate average for Oregon is $28/hr.) to review the new rules, any updated or changed permit conditions, and assess current business practices to ensure compliance ($560).

Statement of Cost of Compliance

State agencies

The impact to state agencies is the same as the impact to local governments, large businesses and small businesses described below as the applicable thresholds for installing equipment based on annual gasoline throughput and currently installed equipment. The proposed rules specify throughput thresholds at which a facility needs to install vapor controls at the GDF irrespective of the ownership type.

DEQ expects an impact of agency staff time to review, learn, and implement these propose changes as well as a slight increase in staff time to review, process and approve new permit applications and construction notifications.

Local governments

The impact to local governments is expected to be the same as the impact to state agencies as described above as well as large and small businesses described below.

Public

The impact to the public is an overall reduction in emissions from gasoline dispensing facilities across the state, resulting in a reduced social and health cost of exposure to gasoline vapors. In some instances, an owner or operator of a GDF may pass on the cost of compliance (purchasing and installing equipment) to the consumer by increasing the cost per gallon of gasoline, but DEQ has no information by which to confirm whether this will happen or how much the increase would be.

Large businesses – businesses with more than 50 employees

Many large businesses are owners or operators of the GDF 5 facilities with over 1,000,000 gallons of annual gasoline throughput. These facilities are subject to the requirement to purchase and install specific vapor equipment by no later than Dec. 31, 2029, on dual-point gasoline storage tanks. Other large businesses may be owners or operators of a GDF 4 facility which has variable requirements based on the facility's location and currently installed equipment.

Small businesses – businesses with 50 or fewer employees

The impact to small businesses is expected to be the same as the impacts described above. The impact was reduced by the Rules Advisory Committee's suggestion to establish the Stage I Enhanced Vapor Recovery threshold for installation for all facilities at the 1,000,000 gallons per year throughput. Based on available information to DEQ, this threshold level

reduces the impact to small businesses as only ~26% of these facilities are owned or operated by a small business (~150 facilities).

ORS 183.336 – Cost of Compliance for Small Businesses

23. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

Approximately 1,169 facilities are permitted by DEQ's General Air Contaminant Discharge Permit for gasoline dispensing activities. The average gas station in the United States employs 8.4 staff. This means that if an owner/operator or entity has 6 stations or more, they most likely are not a small business (8.4 employees X 6 stations = 50.4 employees).

Based on a review of the legal entity names of permitted facilities and information available to DEQ, it is believed that approximately 386 of these General ACDP permitted facilities are owned or operated by small businesses.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Depending on the classification of the GDF (based on throughput), the owner or operator may need to spend time to review the rules or an updated/revised permit. The cost impacts for each type of GDF accounts for this time.

In some instances, a facility will need to utilize a contractor to purchase and/or install specific types of equipment. When equipment changes are required by the proposed rules, the cost estimates include the expected expense for contracting a service provider to conduct work. The administrative cost of compliance associated with the proposed rules is accounted for in each scenario; most recordkeeping, reporting, and other administrative activities remain substantially similar to the existing requirements.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The costs of equipment and labor are not unique to small business owners under the proposed rules. However, the costs of these items are accounted for in the cost estimates.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ included a small businessowner/operator of several GDFs on the Rules Advisory Committee who is also a member of the Oregon Fuels Association. While this RAC member had to excuse themselves from the third RAC meeting and the Fiscal Advisory Committee meeting, another representative of the Oregon Fuels Association was able to attend in their stead.

Per their website, the Oregon Fuels Association is "the voice of Oregon's locally-owned fuel stations, fuel distributors and heating oil providers."

Documents relied on for fiscal and economic impact

The requirement to list the documents relied on to determine fiscal impact is separate from and in addition to the similar list in the Rules affected, authorities, supporting documents section above.

Document title	Document location
'Fiscal_Equipment_Costs_PN.xlsx' Compilation of cost estimates from various sources.	DEQ 700 NE Multnomah St. STE 600 Portland OR 97232

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and documented its recommendations in the 'GDF Emissions Rulemaking FAC Review_PN' document Oct. 26, 2023.

The committee determined that the rules would have a fiscal impact. The committee generally agreed, based on information known to them at the time of the meeting, with DEQ's cost estimates included in the Fiscal Impact Statement and agreed that changes made to the draft rules during the Rules Advisory Committee meetings has reduced the fiscal impact to an acceptable level. Though the committee agreed that there will be a fiscal impact, with some sources experiencing a significant impact, the committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

The committee recommended two additional options to reduce the fiscal impact to small businesses.

1. Establish a low-cost loan product or service to assist small business owners with the cost of equipment required by the proposed rules.
2. Establish a tax incentive program to reduce the taxable income of small business owners who make equipment changes which reduces facility emissions.

While these options could reduce the fiscal impact to small businesses, both options require approval and authorization by the legislature and are not within DEQ's current authority.

For option one, DEQ would require legislative approval to obtain authority to implement a loan program and authorization for funding of the program. For option two, tax incentives are specifically and solely controlled by the legislature. Thus, DEQ could not receive legislative authority to implement a tax incentive associated with facility equipment changes, but the legislature could decide to introduce legislation to accomplish this recommendation.

While the committee determined the rules would not have a significant adverse impact on small businesses in Oregon, the committee agreed that the proposed rules have reduced the rules' fiscal impact on small businesses in alignment with ORS 183.333 and 183.540 by:

- Establishing differing compliance or timetables for facilities that are likely to be small business;
- Consolidating and simplifying the compliance and reporting requirements under the rules;
- Utilizing objective criteria for standards;
- Otherwise establishing less intrusive or less costly alternatives applicable to small business.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules could affect development costs. If gasoline dispensing facility owners or operators subject to the proposed rules increased the cost of gasoline in response to the requirements, contractors and other individuals involved in developing the property may pass their increased cost along to the end-user or purchaser of the property. DEQ does not have information to estimate how much, if any, the increase in cost would be.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

The proposed rule amendments incorporate additional control technologies and technical clarifications for regulated companies while continuing to support the programs' overall implementation and objectives. Proposed rule amendments include the requirement to install gasoline vapor control technology and equipment at almost all newly constructed gasoline dispensing facilities, requiring additional or improved vapor control technology at existing facilities when storage tanks are added or replaced, and requiring these technologies at relatively large (high throughput) facilities.

These proposed amendments are expected to have a positive impact on racial equity. This is supported by the following:

- The proposed rules establish additional or increased vapor control requirements resulting in reduced overall emissions (Volatile Organic Compounds and Hazardous Air Pollutants) from gasoline dispensing facility activities and operations.
- The proposed rules establish a decreased social cost as gasoline vapor exposure to nearby residents and workers is reduced (increased worker and public health).
- Black, Indigenous, and People of Color owned GDFs (and all GDFs) will experience a reduction in the loss of product by evaporation.
- A reduction in VOC emissions equates to a reduction in the overall formation of ozone, a reduction in overall smog and helps reduce the harmful effects of climate change.
- A disproportionate number of low-income and minority populations live in closer proximity to gasoline dispensing facility operations, resulting in a historically disproportionate impact to BIPOC and low-income Oregonians.

Adoption of the proposed rules would affect air permits and facilities statewide – across various sectors, public and private. The rule changes would apply equally across all permit categories and tiers. There are no expected changes to the practical implementation of the permitting program activities because of the rule adoption and there is no expected negative impact on racial equity in the state. Adopting the rules, as proposed, will help to protect public health and the environment (via compliance with the rules, inspections and enforcement) which may be particularly important in BIPOC or historically underserved communities.

Environmental Justice Considerations

As stated above, the air permitting programs are designed to regulate and reduce emissions from sources in Oregon and enhance public welfare for Oregon communities, particularly environmental justice communities.

The proposed rules:

- Establish additional control requirements at previously uncontrolled gasoline dispensing facilities.
- Establish additional control requirements at 'high throughput' facilities across the state.
- Establish a required change in vapor controls at facilities in the Portland area that are expected to result in a net increase in VOC and HAP emissions by the end of 2024.
- Clarify and update the testing, work practices, recordkeeping and reporting obligations of affected sources.

Environmental justice communities are communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth, and persons with disabilities.

These proposed rule amendments will support the implementation of DEQ's environmental justice goals by reducing emissions from gasoline dispensing facility operations statewide, which includes in environmental justice communities.

The following table shows the vulnerable population score (one through five) for each county in the state. The data within the table shows the number of GDFs in those counties that are located in an area with a vulnerable population. For purposes of this table, vulnerable population is an aggregate of various factors, including but not limited to diesel particulate matter pollution levels, traffic volume and proximity, and low-income levels. Broadly speaking, vulnerable population scores can be described as a way to rate the vulnerability of a specific area in regard to populations that may or do experience a higher degree of, or inequitable, environmental burden and related health consequences.

For example, based on available data there are eight GDFs in Baker County that are at a location rated at three on the vulnerable population score, two facilities rated at two, and one facility rated at one. A score of five indicates the most vulnerable population.

County	Vulnerable Population Score*					
	1	2	3	4	5	Total Facilities Per County
BAKER	1	2	8	---	---	11
BENTON	1	2	6	9	---	18
CLACKAMAS	9	24	35	42	4	114
CLATSOP	---	7	5	9	---	21
COLUMBIA	1	3	12	3	---	19

COOS	1	5	13	9	---	28
CROOK	1	2	7	---	---	10
CURRY	---	2	8	---	---	10
DESCHUTES	1	20	18	25	---	64
DOUGLAS	---	16	22	20	---	58
GILLIAM	---	3	---	---	---	3
GRANT	---	4	2	---	---	6
HARNEY	---	2	6	---	---	8
HOOD RIVER	2	5	6	5	---	18
JACKSON	2	16	26	18	8	70
JEFFERSON	1	4	6	---	---	11
JOSEPHINE	---	8	13	12	---	33
KLAMATH	2	16	13	8	---	39
LAKE	---	3	3	---	---	6
LANE	--	15	36	42	14	107
LINCOLN	1	5	18	2	---	26
LINN	---	13	10	20	7	50
MALHEUR	---	4	9	3	---	16
MARION	---	10	25	24	34	93
MORROW	1	2	4	---	---	7
MULTNOMAH	---	5	42	79	63	189
POLK	---	5	7	5	---	17
SHERMAN	---	6	---	---	---	6
TILLAMOOK	1	2	10	---	---	13
UMATILLA	---	9	12	14	---	35
UNION	3	4	7	---	---	14
WALLOWA	---	7	1	---	---	8
WASCO	---	4	3	6	---	13
WASHINGTON	3	15	28	46	19	111
WHEELER	--	--	--	--	--	0
YAMHILL	1	7	9	10	---	27
Total Facilities Per Score	**32**	**242**	**394**	**369**	**135**	**1172**
*Vulnerable Population Score: 5 is the most vulnerable score.						

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules add requirements in addition to federal requirements. Current requirements in Oregon Administrative Rules Chapter 340 Division 242 and 244 applicable to GDF owners and operators supplement applicable federal requirements found under the Code of Federal Regulations (40 C.F.R. part 63 subpart CCCCCC). The proposed rules modify and add requirements to various affected facilities to reduce Hazardous Air Pollutant and criteria pollutant emissions, improve air quality, improve public health, and require enhanced pollution controls that are readily available. For most facilities in the state, different pollution controls would be required when an existing gasoline storage tank is already being replaced or added to the facility.

DEQ's existing rules closely align with the federal regulation applicable to gas station owners and operators with two main differences. One, the threshold to install vapor controls is lower than the applicable federal regulation in some areas of the state. Two, additional pollution controls, separate from the federal regulation, are required of medium and high-throughput sites located in Clackamas, Multnomah, and Washington counties. These two different and more stringent concepts were incorporated into Division 242 and 244 to reduce emissions of VOCs in areas that were close to, or had previously exceeded, National Ambient Air Quality Standards.

The proposed rules remain different than federal regulations but change several key aspects of controlling emissions from GDFs.

Current vs. Proposed Rules **Relation to Federal Regulations**	
Current Rules	**Proposed Rules**
Stage 1 Vapor Balance • In special control areas[13], required on any gasoline storage tank 1,500+ capacity. • In special control areas, required on all gasoline storage tanks 250+ gallon capacity at facility with 120,000+ gallons annual throughput. • In the rest of the state, required at facilities with 480,000+ gallons annual throughput.	Stage 1 Vapor Balance • Statewide at facility with 120,000+ gallons annual throughput (existing facilities install when a tank is added or replaced). • Required to be maintained instead of Stage 1 EVR for single-point storage tanks.

[13] Special control areas are defined in OAR chapter 340 division 204. Control areas with specific requirements of GDF owners/operators include Portland AQMA, Medford AQMA, Salem SKATS. Federal requirements establish stage 1 vapor balance at 100,000+ gallons per month or 1,200,000+ gallons per year.

Stage 2 Vapor Recovery[14] • Required in Clackamas, Multnomah, and Washington Counties for facilities with 600,000+ gallons annual throughput.	Stage 2 Vapor Recovery • Compatible with ORVR systems can remain as-is or elect to remove and install Stage 1 EVR. • Incompatible with ORVR systems can switch to compatible-with-ORVR or install Stage 1 EVR.
Stage 1 Enhanced Vapor Recovery[15] • Not addressed or required.	Stage 1 Enhanced Vapor Recovery • Required on dual-point storage tanks by 12/31/2029 at facilities with 1,000,000+ gallons annual throughput.

What alternatives did DEQ consider if any?

Throughout the drafting of the proposed rules and associated Rules Advisory Committee meetings, DEQ considered various alternatives. These include, but are not limited to:

- Requiring high-throughput facilities to replace single-point storage tanks with dual-point tanks and install stage 1 enhanced vapor recovery.
- Requiring more frequent compliance testing
- Requiring ORVR-noncompatible stage 2 vapor recovery facilities to replace all single-point storage tanks with dual-point tanks and install stage 1 enhanced vapor recovery.
- Requiring low permeation hoses.
- Requiring additional facilities to install stage 1 enhanced vapor recovery and enhanced conventional nozzles.

DEQ did not adopt the alternatives because retrofitting an existing storage tank from single-point to dual-point can cost approximately $40,000 to $50,000 if there are no other unanticipated issues found by the service provider or contractor. This would have a substantial impact on small business owners and require the facility to close to the public while the work was being done. The alternative to retrofitting a tank would be to completely replace it, which in most cases would exceed $100,000 per tank. This retrofit and replacement cost is also the reason a stage 2 ORVR-incompatible facility was instead allowed the option to change to an ORVR-compatible stage 2 system.

Based on existing compliance testing requirements, DEQ is confident that the proposed rules will result in fewer equipment failures and malfunctions, improved equipment maintenance, and reduced VOC emissions.

Low permeation hoses were not included in the proposed rules as the emissions reduced per dollar spent on the equipment did not seem like a reasonable ask of owners and operators compared to the emissions saved or reduced from stage 1 enhanced vapor recovery systems.

[14] Stage 2 Vapor Recovery is not required by federal regulations.
[15] Stage 1 Enhanced Vapor Recovery is not required by federal regulations.

The scientific, economic, technological, administrative and other reasons that DEQ is proposing rules that exceed applicable federal requirements are:

- Gasoline dispensing facilities are the second largest point source category of VOC emissions in the state, accounting for approximately 2,300 tons of VOC per year.
- Gasoline vapors contain Hazardous Air Pollutants, Toxic Air Contaminants and Volatile Organic Compounds which have documented health and environmental impacts. A reduction of these compounds in the atmosphere furthers DEQ's mission to restore, maintain, and enhance the quality of Oregon's air.
- The fiscal and economic impact assessment outlines the relatively reasonable cost of compliance for an affected facility. Some sources with more emissions will incur a higher or more immediate cost to comply with the proposed rules. Several more costly alternatives were not proposed by DEQ to ensure the economic impact of the proposed rules was reasonable and reduced the impact to small businesses.
- The control technology required by the proposed rules is readily available for purchase through several large equipment suppliers. For most affected sources, the proposed rules establish different or additional control equipment when the affected source is engaged in relatively large-scale work on site (e.g., installing a new storage tank or replacing an existing storage tank).
- DEQ's current rules are more stringent than applicable federal requirements. Therefore, alignment of DEQ's rules with currently applicable federal requirements would result in a net increase in VOC emissions.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on, or
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledged comprehensive plans.

DEQ evaluated whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

Affected facilities, under the proposed rules, may be subject to the Notice of Construction or Air Contaminant Discharge Permit requirements that are addressed by the State Agency Coordination Program. These sources, however, would continue demonstrating compliance with statewide land-use planning goals by submitting a land use compatibility statement when applicable.

EQC Prior Involvement

DEQ provided the EQC one additional informational presentation about the proposed rulemaking on Jan. 24, 2024.

Advisory Committee

Background

DEQ convened the Gasoline Dispensing Facility Emissions advisory committee. The committee included representatives from industry, public health, and non-governmental advocacy organizations and met four times. The committee's web page is located at: Gasoline Dispensing Facility Emissions.

The committee members were:

GDF Rulemaking Advisory Committee	
Name	**Representing**
Jason Cole (Ed Staub and Sons Petroleum; stepped down) Brent Leathers (Leathers Enterprises Inc; stepped down) Bascomb Grecian (Ed Staub and Sons Petroleum)	Oregon Fuels Association
David Painter	Barghausen Consulting Engineers, Inc.
Shawn Carter-Elton	Safeway, NW Grocers Association
Lisa Arkin	Beyond Toxics
John Wasiutynski	Multnomah County Office of Sustainability

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - Air Quality Permits
  - DEQ Public Notices
  - New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants
  - Air Quality Maintenance Plans
- Added advisory committee announcements to DEQ's calendar of public meetings at DEQ Calendar.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee discussed the following:

- The committee agreed that the rules will have a fiscal impact.
- Comments on the fiscal impact included:
    - The overall fiscal impact is lower than was expected.
    - The fiscal impact appears to be relatively minimal.
    - The most fiscal impact will come from a GDF that is increasing in size [throughput] located outside the Air Quality Management Areas and that cross an applicable threshold.
- The committee agreed that the fiscal impact would not have a significant adverse impact on small businesses.
- Suggested ways DEQ can comply with ORS 183.540 to reduce the impact:
    - Establish a program that provides financial assistance or low-cost loans for equipment and/or tank replacement.
    - Scaling of applicable requirements based on throughput seems to comply with the reduction of impact on small businesses.
    - Establish a tax incentive for small business owners who install vapor equipment or replace a tank. Business and operations taxes are a challenge for small businesses.
- Some committee members intend to contact service providers and contractors who work with affected facilities to obtain additional cost estimate materials.
- ORS 183.333 reducing impact on small businesses:
    - It appears the draft rules, throughout their development, have accounted for impacts to small businesses effectively.
    - Consider less frequent compliance inspections. Alternatively, consider less frequent source-conducted inspections of their equipment.
- It would be helpful to view emissions reduction in the context of dollars spent or public health benefit per dollar spent.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- Filing notice with the Oregon Secretary of State for publication in the Oregon Bulletin on Nov. 30, 2023, and then Jan. 30, 2024.
- Notifying the EPA by email.
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking at: https://www.oregon.gov/deq/rulemaking/Pages/GDF2022.aspx;
- Emailing approximately 24,349 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - Air Quality Permits
    - DEQ Public Notices
    - New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants
    - Air Quality Maintenance Plans
- Emailing the following key legislators required under ORS 183.335:
    - President of the Senate: Rob Wagner, Sen.RobWagner@oregonlegislature.gov
    - Speaker of the House: Dan Rayfield, Rep.DanRayfield@oregonlegislature.gov
    - Chair of Senate Energy and Environment: Senator Janeen Sollman, Sen.JaneenSollman@oregonlegislature.gov
    - Chair of House Climate, Energy and Environment: Representative Pam Marsh, Rep.PamMarsh@oregonlegislature.gov
- Emailing advisory committee members.
- Posting on the DEQ event calendar: DEQ Calendar.

Public Hearing

DEQ held two public hearings: One on Jan.3, 2024 and the second on Feb. 15, 2024. DEQ received three comments at the first hearing and no comments at the second hearing. Later sections of this document include a summary of the 26 comments received during the open public comment periods, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing 1

Date	Jan. 3, 2024
Place	Virtual
Start Time	6:08 p.m.
End Time	6:32 p.m.
Presiding Officer	Farrah Fatemi

Hearing 2

Date	Feb. 15, 2024
Place	Virtual
Start Time	5:57 p.m.
End Time	6:31 p.m.
Presiding Officer	Farrah Fatemi

Presiding Officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone or via webinar, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

Approximately eight people attended the first hearing by teleconference or webinar. Three people commented orally and there were no written comments submitted at the hearing. In

the second hearing, approximately five people attended. No person presented any oral testimony or written comments at this hearing.

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from Nov. 30 through Jan. 5, 2024, and from Jan. 30 through Feb. 21, 2024.

For public comments received by the close of the public comment period, attachment 'C' organizes comments by the date of receipt. DEQ's response follows the comment. Original comments are on file with DEQ.

DEQ changed the proposed rules in response to comments described in the response sections. Some of the more substantive changes include:

- Extension of the date by which owners/operators with Stage 2 vapor recovery systems that are incompatible with ORVR must be changed from 12/31/2024 to 12/31/2025.
- Added a requirement that specific procedures to be followed when decommissioning Stage 2 vapor recovery and added a required notification of decommissioning to DEQ upon completion.
- Stage 2 vapor recovery system equipment repair timeline requirements were added to mirror the existing Stage 1 vapor balance system requirements.
- Clarification that DEQ is not proposing to expand the specific geographic areas of the state which are covered by the current State Implementation Plan approved by EPA.
- Removal of various 'DEQ alternative' approval language to ensure the proposed rules would be approvable for a SIP revision and NESHAP equivalency determination request.
- Updates to various definitions and the use of defined terms throughout the rules for increased clarity.
- Added an explicit requirement for all equipment in gasoline vapor or liquid service to be compatible with gasoline.

Implementation
Notification

The proposed rules would become effective upon filing on approximately March 22, 2024. The updated requirements for GDFs will be enforceable and incorporated into appropriate permits. DEQ plans to notify affected parties by:

- Email to all sources permitted under the AQGP-22 or AQGP-23 (including sources with a General ACDP 22 or 23 that is an attachment to a separate General ACDP).
- Email to all sources believed to have a gasoline dispensing facility at their permitted location (but are not permitted for GDF General ACDP).
- Email or mailer to known service providers and contractors that work with sources likely to be affected by the rulemaking.
- Email to DEQ's air quality and underground storage tank staff regarding the adopted rules and updates to GDF requirements.

Compliance and enforcement

Affected parties –Sources with a currently issued or assigned Air Contaminant Discharge Permit will be expected to comply with their existing permit until DEQ reassigns or reissues the air permit to the affected source to incorporate the new requirements.

DEQ staff – Staff will be expected to ensure compliance with applicable requirements. Staff will follow the existing Enforcement Guidance for any alleged violations.

Measuring, sampling, monitoring and reporting

Affected parties – This change affects sources with currently issued or assigned Air Contaminant Discharge Permits. Reissued or reassigned permits will include the appropriate recordkeeping, testing, monitoring, and reporting.

Systems

The following systems are used to collect and track information related to permitted facilities affected by this rulemaking.

- **Website** – Information about this rulemaking can be found on DEQ's website: Department of Environmental Quality : Gasoline Dispensing Facility Emissions : Rulemaking at DEQ : State of Oregon
- **Permits** – DEQ's Air Permits Online database can be accessed online: State of Oregon: Department of Environmental Quality.
- **Database**– DEQ utilizes the 'TRAACS' air quality permitting database, where permit and source information is maintained.
- **Database** – Your DEQ Online. During the implementation of these rules, DEQ's air quality program may go-live in the new YDO system. Department of Environmental

Quality : Modernization Project Underway: Your DEQ Online : Online Services : State of Oregon

- **Invoicing** – DEQ leverages the 'TRAACS' database for invoicing.

Training

Affected parties – DEQ will hold a training session(s) for external sources. DEQ expects to provide a brief presentation on the rule changes and offer a question-and-answer session.

DEQ staff – DEQ held one staff training to discuss the proposed rules with staff who were identified as the most likely to be involved in permitting implementation. DEQ will hold an additional training for the same staff and regional air quality managers shortly after the EQC meeting in March 2024.

Five Year Review

ORS 183.405 Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Five-year rule review required

No later than March 21, 2029, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

Rules Subject to 5-Year Review				
244-0232	244-0237	244-0241	244-0243	244-0251

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

Accessibility Information

Español | 한국어 | 繁體中文 | Русский | Tiếng Việt | العربية

Contact: 800-452-4011 | TTY: 711 | deqinfo@deq.state.or.us

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Visit DEQ's Civil Rights and Environmental Justice page.

Attachment A: Proposed Rules (Clean)

State of Oregon Department of Environmental Quality

Division 200, 216, 242 and 244 Draft Rules – Edits Incorporated

Gasoline Dispensing Facility Emissions Rulemaking

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR chapter 340, division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on March 21, 2024.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: ORS 468A & ORS 468.020
Statutes/Other Implemented: ORS 468A.035 & 468A.135
History:
DEQ 19-2022, amend filed 11/18/2022, effective 03/01/2023
DEQ 2-2022, amend filed 02/03/2022, effective 02/03/2022
DEQ 22-2021, amend filed 11/18/2021, effective 11/18/2021
DEQ 21-2021, amend filed 11/18/2021, effective 11/18/2021
DEQ 14-2021, amend filed 07/26/2021, effective 07/26/2021
DEQ 11-2021, amend filed 07/23/2021, effective 07/23/2021

DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021
DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05
DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05

DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98
DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95
DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94
DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94

DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91
DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88
DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86
DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83
DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79
DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 216
AIR CONTAMINANT DISCHARGE PERMITS

340-216-0060
General Air Contaminant Discharge Permits

(1) Applicability.

(a) DEQ may issue a General ACDP under the following circumstances:

(A) There are multiple sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and

(D) The regulated pollutants emitted are of the same type for all covered operations.

(E) DEQ may determine that a source is ineligible for a General ACDP based upon the considerations in OAR 340-216-0025(7).

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements for the operations covered by the General ACDP, excluding any federal requirements not adopted by the EQC;

(B) PSELs set at the potential to emit for the largest emitting source in the source category in the state for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance public notice procedures: A new General ACDP requires public notice as a Category III permit action according to OAR chapter 340, division 209. A reissued General ACDP or a modification to a General ACDP requires public notice as a Category II permit action according to OAR chapter 340, division 209.

(d) DEQ will retain all General ACDPs on file and make them available for public review at DEQ's headquarters.

(2) Petition for General ACDP Categories. Any person may file a petition with DEQ to add a category for a General ACDP. DEQ may use its discretion to determine whether to issue any such new General ACDP. The petition must include at least the following information:

(a) Justification for why a new General ACDP category should be developed;

(b) The approximate number of businesses that would be eligible for the General ACDP;

(c) Criteria for qualification to the General ACDP; and

(d) A list of the requirements applicable to the activities or sources that would be eligible for the new General ACDP.

(3) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application according to OAR 340-216-0040 that includes the information in 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees in OAR 340-216-8020. The fee class for each General ACDP is Fee Class One unless otherwise specified as follows:

(A) Hard chrome platers — Fee Class Three;

(B) Decorative chrome platers — Fee Class Two;

(C) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;

(D) Perchloroethylene dry cleaners — Fee Class Six;

(E) Asphalt plants — Fee Class Three;

(F) Rock crushers — Fee Class Two;

(G) Ready-mix concrete — Fee Class One;

(H) Sawmills, 48planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;

(I) Boilers — Fee Class Two;

(J) Crematories — Fee Class One;

(K) Grain elevators — Fee Class One;

(L) Prepared feeds, flour, and cereal — Fee Class One;

(M) Seed cleaning — Fee Class One;

(N) Coffee roasters — Fee Class One;

(O) Bulk gasoline plants — Fee Class One;

(P) Electric power generators — Fee Class Two;

(Q) Clay ceramics — Fee Class One;

(R) Hospital sterilizers — Fee Class Four;

(S) Gasoline dispensing facilities — Fee Class Four;

(T) Wood preserving — Fee Class Four;

(U) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;

(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;

(ii) Spray-applied painting operation using MFHAP containing paints;

(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);

(V) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class One;

(W) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class Four;

(X) Plating and polishing — Fee Class One;

(Y) Surface coating operations — Fee Class One;

(Z) Paints and allied products manufacturing — Fee Class Two; and

(AA) Emergency generators and firewater pumps, if a permit is required – Fee Class Two.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements according to OAR chapter 340, division 209.

(B) A person is not a permittee under the General ACDP until DEQ assigns the General ACDP to the person.

(C) Assignments to General ACDPs and attachments terminate when the General ACDP or attachment expires or is modified, terminated or revoked.

(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all applicable requirements, excluding any federal requirements not adopted by the EQC, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments according to OAR 340-216-0062, otherwise the owner or operator of the source must obtain a Simple or Standard ACDP.

(E) An owner or operator of a source requesting to be assigned to a General ACDP Attachment, according to OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned, must be reassigned to the General ACDP for the source category in the higher annual fee class.

(4) DEQ Initiated Modification. If DEQ determines that the conditions have changed such that a General ACDP for a category needs to be modified, DEQ may issue a modified General ACDP for that category and assign all existing General ACDP permit holders to the modified General ACDP.

(5) Rescission. DEQ may rescind a permittee's assignment to a General ACDP if the permittee's source no longer meets the requirements or qualification conditions of the permit. In such case, the permittee must submit an application within 60 days for a Simple or Standard ACDP upon notification by DEQ of DEQ's intent to rescind the General ACDP. Upon issuance of the Simple or Standard ACDP, or if the permittee fails to submit an application for a Simple or Standard ACDP, DEQ will rescind the permittee's assignment to the General ACDP.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 19-2022, amend filed 11/18/2022, effective 03/01/2023
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 128-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 10-2001, f. & cert. ef. 8-30-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725
DEQ 14-1998, f. & cert. ef. 9-14-98

Division 244
OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0030
General Provisions for Stationary Sources: Definitions

Except as provided in OAR 340-244-0220 and -0232, the definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) "Affected source" is as defined in 40 C.F.R. 63.2.

(2) “Area Source” means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(3) “C.F.R.” means the July 1, 2020 edition Code of Federal Regulations unless otherwise identified.

(4) “Construct a major source” means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

(5) “Emissions Limitation” and “Emissions Standard” mean a requirement adopted by DEQ or Regional Agency, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(6) “Equipment leaks” means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(7) “Existing Source” means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(8) “Facility” means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(9) “Gasoline” means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.

(10) “Hazardous Air Pollutant” (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(11) “Major Source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(12) “Maximum Achievable Control Technology (MACT)” means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

(13) “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(14) “Nonroad engine” means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(15) “Nonroad vehicle” means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(16) “New Source” means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(17) “Potential to Emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term “capacity factor” as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(18) “Reconstruct a Major Source” means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(19) “Regulated Air Pollutant” as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(20) “Section 112(n)” means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(21) “Section 112®” means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(22) “Solid Waste Incineration Unit” as used in this Division has the same meaning as given in Section 129(g) of the FCAA.

(23) “Stationary Source”, as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant.

[Publications: Publications referenced are available from DEQ.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:
DEQ 5-2022, amend filed 04/07/2022, effective 04/07/2022
DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 6-2017, f. & cert. ef. 7-13-17
DEQ 8-2015, f. & cert. ef. 4-17-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120
DEQ 18-1998, f. & cert. ef. 10-5-98
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & cert. ef. 10-28-94

DEQ 18-1993, f. & cert. ef. 11-4-93
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0100
Compliance Extensions for Early Reductions: Applicability

The requirements of 40 C.F.R. Part 63, Subpart D apply to an owner or operator of an existing source who wishes to obtain a compliance extension and an alternative emission limit from a standard issued under Section 112(d) of the FCAA. Any owner or operator of a facility who elects to comply with a compliance extension and alternative emission limit issued under this section must complete a permit application as prescribed in 40 C.F.R. 63.77.

Statutory/Other Authority: ORS 468.020 & 468A.310
Statutes/Other Implemented: ORS 468A.310
History:
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0300
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0200
Compliance Extensions for Early Reductions: Emissions Limitation for New and Reconstructed Major Sources

(1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to Section 112(d), Section 112(n), or Section 129 of the FCAA must comply with the requirements and emission standard for new sources when promulgated by EPA.

(2) State MACT. Any person who proposes to construct or reconstruct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program must comply with new and reconstructed source MACT requirements of 40 C.F.R. Part 63, Subpart B.

(3) Compliance schedule. The owner or operator of a new or reconstructed source must on and after the date of start-up, be in compliance with all applicable requirements specified in the Federal or State MACT.

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0500
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0210
Emission Standards: Emissions Limitation for Existing Sources

(1) Federal MACT. Existing major and area sources must comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA and adopted by rule within this Division.

(2) State MACT. If the EPA fails to meet its schedule for promulgating a MACT standard for a source category or subcategory, DEQ must approve HAP emissions limitations for existing major sources within that category or subcategory according to 40 C.F.R. Part 63, Subpart B.

(a) The owner or operator of each existing major source within that category will file permit applications in accordance with OAR 340-218-0040 and 40 C.F.R. Part 63, Subpart B.

(b) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source that is more stringent than the one established pursuant to this section, DEQ must revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source will be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated;

(c) DEQ will not establish a case-by-case State MACT:

(A) For existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR chapter 340, division 230; or

(B) For existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.

(3) Compliance schedule:

(a) The owner or operator of the source must comply with the emission limitation:

(A) Within the time frame established in the applicable Federal MACT standard, but in no case later than three years from the date of federal promulgation of the applicable MACT requirements; or

(B) Within the time frame established by DEQ where a state-determined MACT has been established or a case-by-case determination has been made.

(b) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology or has been required to meet Lowest Achievable Emission Rate before the promulgation of a federal MACT applicable to that emissions unit is required to comply with such MACT standard until 5 years after the date on which such installation or reduction has been achieved, as determined by DEQ.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.310
History:
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0505
DEQ 18-1998, f. & cert. ef. 10-5-98, Renumbered from 340-032-2500

DEQ 7-1998, f. & cert. ef. 5-5-98
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0231
Gasoline Dispensing Facilities: Purpose

Rules under OAR 340-244-0231 through -0252 establish emission limitations and management practices for hazardous air pollutants and volatile organic compounds emitted from the loading of gasoline storage tanks and dispensing of fuel at gasoline dispensing facilities. OAR 340-244-0231 through -0252 also establish requirements to demonstrate compliance with the emission limitations and management practices.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2008, f. & cert. ef 12-31-08

340-244-0232
Gasoline Dispensing Facilities: Definitions

The following definitions apply to OAR 340-244-0232 through -0252. If the same term is defined in this rule and OAR 340-200-0020, 340-244-0030, or 340-218-0030, the definition in this rule applies to OAR 340-244-0231 through -0252.

(1) "Annual throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a year. Annual throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days.

(2) “Aviation gasoline” means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications are found in ASTM Specification D910–07a.

(3) “CARB” means the California Air Resources Board.

(4) “Dual-point” means a storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(5) “Dual-point vapor balance system” means a type of Stage I vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(6) "Enhanced Conventional nozzle (ECO nozzle)" means a gasoline dispensing nozzle which does not exceed a spillage rate of 0.12 lbs/1000 gallons, liquid retention which does not exceed 100 mL/1000 gallons, spitting which does not exceed 1.0 mL per nozzle per test and post-fueling drips which do not exceed three Drops/Refueling. A nozzle certified by CARB through an executive order as an ECO nozzle will be considered compliant with this definition.

(7) "Enhanced Vapor Recovery (EVR; Stage I EVR)" means a complete vapor balance system which includes all components outlined in California Air Resources Board executive order VR-101, VR-102, VR-104, or VR-105 as of December 1, 2023. The specific equipment and requirements for an EVR system are found in Table 2 of this division.

(8) "Existing" means a GDF that is not new or reconstructed.

(9) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(10) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.

(11) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland AQMA, and the Salem-Keizer Area Transportation Study, "gasoline dispensing facility" includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.

(12) "Medford-Ashland AQMA" is as defined in Oregon Administrative Rules chapter 340 division 204.

(13) "New" means a GDF for which an owner or operator had commenced construction after November 9, 2006.

(14) "ORVR" means Onboard Refueling Vapor Recovery system. This is the system in a motor vehicle, part of the fuel vapor emission control system, and is used to capture volatile organic compounds during the refueling process.

(15) "Portland AQMA" is as defined in Oregon Administrative Rules chapter 340 division 204.

(16) "Reconstructed" means meeting the criteria for reconstruction as defined in 40 C.F.R. 63.2.

(17) "Salem-Keizer (SKATS)" is as defined in Oregon Administrative Rules chapter 340 division 204.

(18) "Stage I vapor balance system (Stage I)" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(19) "Stage II vapor recovery system (Stage II)" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

(20) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0245(2) from the bottom of the tank. Bottom filling of gasoline storage tanks is also submerged filling. .

(21) “Throughput” means the volume of gasoline loaded into, or dispensed from, gasoline storage tanks at a GDF.

(22) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(23) "Vapor balance system" means Stage I vapor balance system.

(24) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(25) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:

340-244-0234
Gasoline Dispensing Facilities: Affected Equipment and Sources

(1) The emission sources to which the Gasoline Dispensing Facilities rules under OAR 340-244-0231 through 340-244-0252 apply are gasoline storage tanks and all associated equipment components in vapor or liquid gasoline service at a GDF.

(2) The affected source to which the emission standards apply is each GDF. The affected source includes each gasoline cargo tank during the delivery of gasoline to a GDF, each gasoline storage tank, pressure/vacuum vents on gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at a GDF.

(3) The emissions standards in OAR 340-244-0231 through 340-244-0252 do not apply to agricultural operations as defined in ORS 468A.020. Agricultural operations are however required to comply with the Gasoline Dispensing NESHAP, if applicable (40 C.F.R. part 63 subpart CCCCCC).

(4) Each GDF will fall into one or more of the categories listed in this subsection. Where multiple categories apply to one GDF, the requirements of each applicable category apply to that GDF. Each GDF category is followed by a number which is used to indicate which rules in this division apply to that GDF:

(a) A GDF located anywhere in the state that has only gasoline storage tanks with capacity of less than 250 gallons, hereafter referred to as GDF 1.

(b) A GDF located anywhere in the state with a gasoline storage tank that has a capacity of 250 gallons or more, hereafter referred to as GDF 2.

(c) A GDF located anywhere in the state with 120,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 3.

(d) A GDF located anywhere in the state with 600,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 4.

(e) A GDF located anywhere in the state with 1,000,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 5.

(5) The owner or operator of a GDF is not required to obtain an Oregon Title V Operating Permit as a result of being subject to OAR 340-244-0231 through 340-244-0252 However, the owner or operator of a GDF must still apply for and obtain an Oregon Title V Operating Permit if meeting one or more of the applicability criteria found in 340-218-0020.

(6) The loading of aviation gasoline storage tanks at airports, and the subsequent transfer of aviation gasoline within the airport, is not subject to OAR 340-244-0231 through 340-244-0252, except in Clackamas, Multnomah, and Washington Counties, Medford-Ashland AQMA and the Salem-Keizer SKATS. In these geographic areas, aviation gasoline is subject to 340-244-0231 through 340-244-0252.

(7) The dispensing of gasoline from a fixed gasoline storage tank at a GDF into a portable gasoline tank for the on-site delivery and subsequent dispensing of the gasoline into the fuel tank of a motor vehicle or other gasoline-fueled engine or equipment used within the area source is only subject to OAR 340-244-0245(1).

(8) If the affected source ever exceeds an applicable threshold, throughput or otherwise, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source later falls below the applicable threshold.

(9) For a source that becomes subject to a requirement to install a Stage I vapor balance system, Enhanced Vapor Recovery system, or complete any other equipment change because of an increase in throughput, the owner or operator must have completed the equipment changes no later than 24 months after the affected source becomes subject to the additional or changed requirement, unless otherwise specified within this division.

(10) A split compartment gasoline storage tank (i.e., one storage tank that is internally divided to hold two or more different types of liquid) will have each compartment of the tank treated as a separate storage tank for purposes of compliance with OAR 340-244-0231 through -0252.

(11) The owner or operator of a new GDF, a reconstructed GDF that has ever had annual throughput of 1,000,000 gallons of gasoline or more, or any new or replaced storage tank(s) at a GDF that has ever had annual throughput of 1,000,000 gallons of gasoline or more must comply with OAR 340-244-0248(1).

(12) All equipment installed at a GDF that is in gasoline liquid or vapor service must be compatible with gasoline according to the equipment manufacturer’s instructions or documentation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0235
Gasoline Dispensing Facilities: General Duties to Minimize Emissions

(1) The owner or operator of a GDF must, at all times, operate and maintain all equipment, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to DEQ which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(2) Compliance with this rule does not exempt the owner or operator from enforcement for any noncompliance with applicable requirements during a malfunction event.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

OAR 340-244-0237
Gasoline Dispensing Facilities: GDF 1

The owner or operator of a GDF 1 as described in OAR 340-244-0234(4) must comply with the following requirements:

(1) Work Practices, No Top Off, and Submerged Fill under OAR 340-244-0245; and

(2) Recordkeeping under OAR 340-244-0250.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0238
Gasoline Dispensing Facilities: GDF 2

The owner or operator of a GDF 2 as described in OAR 340-244-0234(4) must comply with the following requirements:

(1) All applicable requirements under OAR 340-244-0237; and

(2) Reporting under OAR 340-244-0251.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0241
Gasoline Dispensing Facilities: GDF 3

(1) The owner or operator of a GDF 3 as described in OAR 340-244-0234(4) must comply with the following requirements:

(a) All applicable requirements under OAR 340-244-0238; and

(b) Testing requirements under OAR 340-244-0249.

(2) The owner or operator of a GDF 3 which commenced construction on or after July 1, 2024 must comply with OAR 340-244-0248 and install a dual-point vapor balance system on each gasoline storage tank with 250 gallon or greater capacity. Notwithstanding the testing requirements of OAR 340-244-0249, a complete Stage I vapor balance system must be installed before equipment is placed into gasoline service.

(3) The owner or operator of a GDF 3 which commenced construction before July 1, 2024 must comply with OAR 340-244-0248 and install a dual-point vapor balance system on each new or replaced gasoline storage tank with 250 gallon or greater capacity.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0242
Gasoline Dispensing Facilities: GDF 4

(1) The owner or operator of a GDF 4 as described in OAR 340-244-0234(4) must comply with all applicable requirements under OAR 340-244-0241;

(2) The owner or operator of a GDF 4 which commenced construction on or after July 1, 2024 must comply with the following for each gasoline storage tank with 250 gallon or greater capacity:

(a) Each storage tank must be dual-point; and

(b) Install an Enhanced Vapor Recovery system on each storage tank and ECO nozzles on each gasoline dispenser under OAR 340-244-0246.

(3) The owner or operator of a GDF 4 which commenced construction before July 1, 2024 without a Stage II vapor recovery system must comply with the following:

(a) Each new, replaced, or reconstructed gasoline storage tank with 250 gallon or greater capacity must be dual-point and install an Enhanced Vapor Recovery system under OAR 340-244-0246; and

(b) The owner or operator must install ECO nozzles on all gasoline dispensers at the time any gasoline storage tank is required to install an Enhanced Vapor Recovery system.

(4) The owner or operator of a GDF 4 which commenced construction before July 1, 2024 and which has a complete Stage II vapor recovery system must comply with OAR 340-244-0247.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0243
Gasoline Dispensing Facilities: GDF 5

(1) The owner or operator of a GDF 5 as described in OAR 340-244-0234(4) must comply with all applicable requirements under OAR 340-244-0242;

(2) The owner or operator of a GDF 5 which commenced construction on or after July 1, 2024 must comply with the following for each gasoline storage tank with 250 gallon capacity or greater:

(a) The gasoline storage tank must be dual-point; and

(b) Install an Enhanced Vapor Recovery system on each storage tank and ECO nozzles on each gasoline dispenser under OAR 340-244-0246.

(3) The owner or operator of a GDF 5 which commenced construction before July 1, 2024 must comply with the following by no later than December 31, 2029 or 24 months after becoming a GDF 5, whichever is later, for each gasoline storage tank with greater than 250 gallon capacity:

(a) Install an Enhanced Vapor Recovery system on each dual-point gasoline storage tank under OAR 340-244-0246;

(b) Install ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246. An owner or operator of a GDF 5 that has a compatible Stage II vapor recovery system may delay the installation of ECO nozzles until the Stage II vapor recovery system is capped, removed, or otherwise decommissioned according to OAR 340-244-0247; and

(c) Each new or replaced gasoline storage tank must be dual-point and have an Enhanced Vapor Recovery system installed under OAR 340-244-0246 before the tank is brought into gasoline service.

(4) The owner or operator of a GDF 5 which commenced construction before July 1, 2024 subject to this rule must install, maintain and operate a complete vapor balance system under OAR 340-244-0248 on all single point gasoline storage tanks with 250 gallon capacity or greater.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0245
Gasoline Dispensing Facilities: Work Practices, No Top Off, and Submerged Fill

(1) **Work Practices.** The owner or operator of a GDF must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

(a) Minimize gasoline spills;

(b) **Do not top off** or overfill vehicle tanks.

(A) If a person can confirm that a vehicle tank is not full after the nozzle clicks off, such as by checking the vehicle's fuel tank gauge, the person may continue to dispense fuel using best judgment and caution to prevent a spill;

(B) Post sign(s) at the GDF instructing a person filling up a motor vehicle to not top off the vehicle tank. A sign must be placed on each gasoline dispenser, or on a permanent fixture within six feet of the dispenser, and be clearly visible to an individual using the hose and nozzle to dispense gasoline;

(c) Clean up spills as expeditiously as practicable. The owner or operator must develop a written plan that describes how a spill will be cleaned up upon occurrence. The plan must include, but is not limited to, where spill materials are located, a brief description of how each is used, and an explanation of how the owner or operator is implementing the 'as expeditiously as practicable' requirement of this subsection (c).

(d) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;

(e) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(f) Ensure that cargo tanks unloading gasoline at the GDF comply with subsections (1)(a) through (d).

(2) **Submerged Fill.** Except for gasoline storage tanks with a capacity of less than 250 gallons, the owner or operator of a GDF must only load gasoline into storage tanks at the GDF by utilizing submerged filling, as defined in OAR 340-244-0232, and as specified in subsection (2)(a), (2)(b), or (2)(c). The applicable distances in subsections (2)(a) and (2)(b) must be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage tank.

(a) Submerged fill pipes installed on or before Nov. 9, 2006, must be no more than 12 inches from the bottom of the storage tank.

(b) Submerged fill pipes installed after Nov. 9, 2006, must be no more than 6 inches from the bottom of the storage tank.

(c) Submerged fill pipes not meeting the specifications of subsection (2)(a) or (2)(b) are allowed if the owner or operator of a GDF can demonstrate that the liquid level in the tank is and always has been above the entire opening of the fill pipe. Documentation providing such demonstration must be made available for inspection by DEQ during the course of a site visit or upon request within 48 hours.

(3) **Cargo Tank Unloading.** Any cargo tank unloading at a GDF that is equipped with a Stage I vapor balance system or Enhanced Vapor Recovery system must connect to the system whenever gasoline is being loaded.

(4) Portable gasoline containers that meet the requirements of 40 C.F.R. part 59 subpart F are considered acceptable for compliance with subsection (1)(d).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0246

Gasoline Dispensing Facilities: Enhanced Vapor Recovery Requirements

(1) All storage tanks referred to this rule that are new, replaced, or reconstructed after July 1, 2024 must be equipped with CARB certified Stage I Enhanced Vapor Recovery equipment before being placed into gasoline service. CARB certified Enhanced Vapor Recovery system components are listed in Table 2 of this rule.

(2) All gasoline dispensing nozzles at a GDF referred to this rule and not in Stage II vapor recovery service must be Enhanced Conventional Nozzles by no later than July 1, 2024, unless otherwise specified.

(3) Any alteration of the equipment, parts, design, or operation of the Enhanced Vapor Recovery system as certified by CARB is prohibited and must not be performed.

(4) The owner or operator of a GDF referred to this rule must comply with the following:

(a) In order to ensure that the Enhanced Vapor Recovery equipment is maintained to be vapor tight and in good working order, have the equipment inspected on at least an annual basis to discover potential or actual equipment failures. Some components require more frequent inspection or maintenance. Where this annual inspection requirement and Table 2 conflict, the more frequent inspection or maintenance requirement applies;

(b) Replace, repair or modify the affected component or design element within 24 hours after the owner or operator knows or reasonably should know of the component or design element being worn or ineffective to ensure the vapor-tight integrity and efficiency of the Enhanced Vapor Recovery system. If repair parts must be ordered, either a written or oral order for those parts must be initiated within two working days of detecting such a leak. Such repair parts must be installed within five working days after receipt; and

(c) Maintain spill containers (buckets) for gasoline storage tanks free of liquid and solid materials.

(5) The owner or operator of a GDF equipped with an Enhanced Vapor Recovery system must operate and maintain all EVR components in accordance with manufacturer's specifications and Table 2 of this rule.

(6) The owner or operator of a GDF equipped with an EVR system must retain records as specified under OAR 340-244-0250 and Table 2 of this rule for the applicable EVR equipment or component.

(7) An owner or operator of a GDF required to install a Stage I EVR system may install components from different sections of Table 2 of this rule (i.e., 'mix and match') as long as each component specified in each section of Table 2 has a CARB approved component installed and the complete EVR system can pass all required performance tests.

(8) The owner or operator must maintain an equipment installation checklist or similar (e.g., record) which clearly documents which components were installed on each affected gasoline storage tank. The equipment installation checklist or similar document must be replaced, updated or revised each time a required EVR component is replaced.

[Note: For additional information on Enhanced Vapor Recovery systems, including manufacturer's requirements, installation specifications, and warranty information, please see the applicable California Air Resources Board Executive Orders.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:

OAR 340-244-0247
Gasoline Dispensing Facilities: Stage II Vapor Recovery System

(1) The owner or operator of a GDF with a Stage II vapor recovery system referred to this rule must determine, by no later than July 1, 2024, whether the currently installed Stage II vapor recovery system is compatible or incompatible with motor vehicle Onboard Refueling Vapor Recovery systems (ORVR). A Stage II vapor recovery system is incompatible with ORVR, for example, if it actively draws gasoline vapor during dispensing and does not cease the vacuum draw when dispensing gasoline into an ORVR-equipped motor vehicle.

(a) Owners or operators with ORVR **compatible** Stage II vapor recovery systems must comply with section (2) of this rule; and

(b) Owners or operators with ORVR **incompatible** Stage II vapor recovery systems must comply with sections (3) or (4) of this rule.

(2) The owner or operator of an ORVR-compatible Stage II vapor recovery system may remove the Stage II vapor recovery system if the following conditions are met:

(a) The owner or operator complies with notice of construction requirements of division 210, as applicable;

(b) The owner or operator installs a complete Enhanced Vapor Recovery system on each gasoline storage tank with 250 gallon capacity or greater under OAR 340-244-0246;

(c) The owner or operator installs ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246;

(d) The Enhanced Vapor Recovery system and ECO nozzles must be installed no later than the same calendar day the complete Stage II vapor recovery system is uninstalled, capped, or otherwise decommissioned according to OAR 340-244-0247, except as provided in subsection (2)(e);

(e) If the owner or operator is not dispensing any gasoline from or loading any gasoline into any gasoline storage tanks at the facility, the Enhanced Vapor Recovery system and ECO nozzles must instead be installed before any gasoline is dispensed from or loaded into any gasoline storage tank at the facility.

(3) The owner or operator of an ORVR-incompatible Stage II vapor recovery system must remove, cap, or otherwise decommission the Stage II vapor recovery system no later than December 31, 2025 in accordance with OAR 340-244-0247(10) and:

(a) Comply with the notice of construction requirements of division 210, as applicable;

(b) Install a complete Enhanced Vapor Recovery system on each gasoline storage tank with 250 gallon capacity or greater under OAR 340-244-0246;

(c) Install ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246;

(d) The Enhanced Vapor Recovery system and ECO nozzles must be installed no later than the same calendar day the complete Stage II vapor recovery system is uninstalled, capped, or otherwise decommissioned according to OAR 340-244-0247, except as provided in subsection (3)(e);

(e) If the owner or operator is not dispensing any gasoline from or loading any gasoline into any gasoline storage tanks at the facility, the Enhanced Vapor Recovery system and ECO nozzles must instead be installed before any gasoline is dispensed from or loaded into any gasoline storage tank at the facility.

(4) The owner or operator of an incompatible Stage II vapor recovery system must install a compatible Stage II vapor recovery system no later than December 31, 2025, and comply with the notice of construction requirements of division 210, as applicable.

(5) No owner or operator of a GDF may transfer or allow the transfer of gasoline into a motor vehicle fuel tank using a Stage II vapor recovery system that is incompatible with motor vehicle ORVR systems after December 31, 2025.

(6) An owner or operator of a GDF that wants to install an ORVR-compatible Stage II vapor recovery system when not otherwise required to do so by this division must submit a notice of construction under division 210 and receive written DEQ approval before installing the equipment.

[NOTE: Underground piping requirements are described in OAR chapter 340 division 150 and 40 C.F.R. 280.20(d). Systems installed according to Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems", RP300, "Installation and Testing of Vapor Recovery Systems", or American Society of Mechanical Engineers Standard B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids" or manufacturer specifications are considered approved systems.]

(7) Owners and operators of gasoline-dispensing facilities with Stage II vapor recovery systems must:

(a) Provide adequate training and written instructions to the operator of the affected gasoline-dispensing facility and the gasoline transport vehicle. Written instructions must be readily available to onsite staff, contractors, and similar individuals (electronic or hardcopy);

(b) Inspect all components of the Stage II vapor recovery system, including but not limited to all hoses and nozzles, at least once every three months;

(c) Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the Stage II vapor recovery systems. The affected component or design element must be replaced, repaired, or modified within 24 hours after the owner or operator knows or reasonably should know of the component or design element being worn on ineffective to ensure the vapor-tight integrity and efficiency of the Stage II vapor recovery system. If repair parts must be ordered, either a written or oral order for those parts must be initiated within two working days of detecting such a leak. Such repair parts must be installed within five working days after receipt; and

(d) Connect and ensure proper operation of the Stage II vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

(8) Approval of a Stage II vapor recovery system by DEQ does not relieve the owner or operator of the responsibility to comply with other applicable codes and regulations, including, without limitation, those pertaining to fire prevention, weights and measures, and safety matters.

(9) Regarding installation, removal, decommissioning and testing of piping for Stage II vapor recovery systems:

(a) Piping must be installed, modified, decommissioned or removed in accordance with standards in OAR 340 division 150 as applicable;

(b) Piping must be installed, modified, decommissioned or removed by a licensed service provider pursuant to OAR 340 division 160 as applicable; and

(c) Piping must be tested prior to being placed into operation by an installation or tank tightness testing service provider licensed pursuant to OAR 340 division 160 as defined by the appropriate testing method.

(10) Stage II vapor recovery system decommissioning. The owner or operator of a GDF that is removing, capping, or otherwise decommissioning a Stage II vapor recovery system must comply with the following during the decommissioning, as applicable:

(a) Initiate all appropriate safety procedures;

(b) Relieve pressure in tank ullage;

(c) Drain liquid-collection points;

(d) Disconnect all vapor pumping or processing units;

(e) Disconnect all electrical components of the Stage II vapor recovery system so that no electrics hazards are created;

(f) Reprogram the dispenser electronics to reflect that the Stage II vapor recovery system is no longer in service;

(g) Securely seal off the below grade vapor piping at height below the level of the base of the dispenser and capped with compatible cap material;

(h) Securely seal off the below grade vapor piping at the tank end if it is easily accessible and cap with compatible material;

(i) Securely seal off the vapor piping inside the dispenser and cap with compatible material;

(j) Replace Stage II vapor recovery system hanging hardware with conventional hanging hardware or Enhanced Conventional Nozzles, as applicable;

(k) Install appropriate Pressure Vacuum Vent valves;

(l) Remove any instructions from the dispenser cabinet;

(m) Conduct a pressure test for all gasoline storage tanks above 250 gallon capacity at the site according to OAR 340-244-0249(6)(a)(A); and

(n) Verify visible components of storage tank are left in condition that will reliably prevent the release of vapors/liquids from any system component.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0402
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 16-1996, f. & cert. ef. 8-14-96
DEQ 25-1994, f. & cert. ef. 11-22-94
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91)

OAR 340-244-0248

Gasoline Dispensing Facilities: Stage I Vapor Balance System

(1) The owner or operator of a GDF or storage tank referred to this rule, except for gasoline storage tanks with floating roofs or the equivalent, must meet each of the following management practice and equipment requirements for a Stage I vapor balance system on each gasoline storage tank:

(a) All vapor connections and lines on the storage tank must be equipped with closures that seal upon disconnect;

(b) The vapor line from the gasoline storage tank to the gasoline cargo tank must be vapor-tight, as defined in OAR 340-244-0232;

(c) The Stage I vapor balance system must be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer;

(d) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, must be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations;

(e) If a gauge well separate from the fill tube is used, it must be provided with a submerged drop tube that extends the same distance from the bottom of the storage tank as specified in OAR 340-244-0245(2);

(f) Liquid fill and vapor return connections for all systems must be equipped with vapor-tight caps;

(g) Pressure/vacuum (PV) vent valves must be installed on the storage tank vent pipes. The pressure specifications for PV vent valves must be a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, must not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of 4 inches of water; and

(h) The vapor balance system must be capable of meeting the static pressure performance requirement of the following equation:

$Pf = 2e^{-500.887/v}$

Where:

Pf = Minimum allowable final pressure, inches of water.

V = Total ullage affected by the test, in gallons.

E = Dimensionless constant equal to approximately 2.718.

2 = The initial pressure, in inches water.

(2) The owner or operator of a new GDF, a reconstructed GDF that has ever had annual throughput of 1,000,000 gallons of gasoline or more, or any new or replaced storage tank(s) at a GDF that has ever had annual throughput of 1,000,000 gallons of gasoline or more must install and operate a dual-point vapor balance system, as defined in OAR 340-244-0232, on each affected gasoline storage tank and comply with the design criteria in section (1) of this rule.

(3) The owner or operator of a cargo tank unloading at a GDF must comply with the requirements of OAR 340-244-0245(1) and must not unload gasoline into a storage tank at a GDF with a Stage I vapor balance system unless the following conditions are met:

(a) All hoses in the vapor balance system are properly connected;

(b) The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect;

(c) All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight;

(d) All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank;

(e) All hatches on the tank truck are closed and securely fastened; and

(f) The filling of storage tanks at GDF must be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 must be carried on or with the cargo tank.

(4) The owner or operator of a gasoline storage tank referred to this rule must comply with the following requirements:

(a) When loading a gasoline storage tank equipped with a Stage I vapor balance system, connect and ensure the proper operation of the system whenever gasoline is being loaded;

(b) Maintain all equipment associated with the Stage I vapor balance system to be vapor tight and in good working order;

(c) In order to ensure that the Stage I vapor balance equipment is maintained to be vapor tight and in good working order, have the vapor balance equipment inspected every six months to discover potential or actual equipment failures; and

(d) Replace, repair or modify the affected component or design element within 24 hours after the owner or operator knows or reasonably should know of the component or design element being worn on ineffective to ensure the vapor-tight integrity and efficiency of the Stage I vapor balance system. If repair parts must be ordered, either a written or oral order for those parts must be initiated within two working days of detecting such a leak. Such repair parts must be installed within five working days after receipt.

(5) The owner or operator of a GDF or storage tank referred to this rule must:

(a) Maintain spill containers (buckets) for gasoline storage tanks free of liquid and solid materials;

(b) Equip gasoline dispensing hoses with an emergency breakaway device designed to retain liquid on both sides of a breakaway point. When hoses are attached to a hose-retrieving mechanism, the emergency breakaway device must be located between the hose nozzle and the point of attachment of the host retrieval mechanism to the hose; and

(c) Limit the maximum flow rate from each dispenser to no more than 10 gallons per minute (37.9 liters per minute). The flow rate may be controlled through any means in the pump/dispenser system, provided the flow rate limit is complied with. Any dispensing pump that is dedicated exclusively to heavy-duty vehicles, boats, or airplanes is exempt from this requirement.

(6) In any instance in which the applicable equipment or requirements of this rule directly conflict with applicable equipment or requirements of the Enhanced Vapor Recovery rule under OAR 340-244-0246, the EVR requirements and rule -0246 will supersede this rule.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 149-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0249
Gasoline Dispensing Facilities: **Testing and Monitoring Requirements**

(1) Effective March 23, 2024, the testing listed in this rule must be conducted and passed for each Stage I vapor balance system, Enhanced Vapor Recovery system, and Stage II vapor recovery system, as applicable. Initial tests must be completed no later than July 1, 2025. For owners or operators assigned

to or issued an Air Contaminant Discharge Permit which requires testing, the testing requirements of both the Air Contaminant Discharge Permit and this rule must be met for the initial and subsequent tests.

(2) All subsequent tests must be conducted at the frequency required by this rule and no later than the end of the calendar month during which the initial test was conducted.

(3) Stage I Vapor Balance and Stage II vapor recovery. The following test requirements apply to Stage I vapor balance and Stage II vapor recovery systems:

(a) An owner or operator of a GDF installing a complete Stage I vapor balance or Stage II vapor recovery system must conduct and pass a "Pressure test", "PV Vent Valve test", and "Leak Rate of Drop Tube test" under section (6) prior to placing the equipment into gasoline service. If necessary for testing purposes, enough gasoline to conduct the performance test may be loaded into the gasoline storage tank(s) at the GDF;

(b) A GDF that has only conducted initial testing upon installation of the Stage I vapor balance system for "Pressure test" and "PV Vent Valve test", as listed under section (6), must conduct and pass a test for both of these and a "Leak Rate of Drop Tube test" before July 1, 2025;

(c) A GDF with a Stage I vapor balance system must conduct and pass a "Pressure test" and "PV Vent Valve test" under section (6) at least once every 24 months.

(4) Enhanced Vapor Recovery. The following test requirements apply to Enhanced Vapor Recovery systems:

(a) An owner or operator of a GDF installing an Enhanced Vapor Recovery system must conduct and pass the following tests, as listed under section (6) prior to placing the equipment into gasoline service. If necessary for testing purposes, enough gasoline to conduct the performance test may be loaded into the gasoline storage tank(s) at the GDF:

(A) "Pressure test";

(B) "PV Vent Valve test";

(C) "Static Torque test" if the EVR system has rotatable adapters; and

(D) "Leak Rate of Drop Tube test".

(b) An owner or operator of a GDF that is equipped with an Enhanced Vapor Recovery system must conduct the tests listed in paragraph (4)(a)(A) through (D) at least once every 24 months.

(5) A failed test completed timely and a passing test completed after the required frequency is not compliant with this rule. Frequency requirements established in section (6) of this rule pertain to test results which demonstrate the vapor control equipment is functioning properly according to the applicable test method.

(6) Compliance tests for gasoline vapor control equipment are as follows:

(a) Stage I vapor balance and Stage I EVR systems must:

(A) Conduct a Pressure test every 24 months. A pressure test is either CARB Vapor Recovery Test Procedure 201.3 (TP-201.3) 'Determination of 2-Inch WC Static Pressure Performance of Vapor

Recovery Systems of Dispensing Facilities' or Bay Area Air Quality Management District Source Test Procedure ST-30 'Static Pressure Integrity Test — Underground Storage Tanks'.

(B) Conduct a Leak Rate of Drop Tube test every 24 months. A Leak Rate of Drop Tube test is either Test Procedure 201.1C (TP-201.1C) 'Leak Rate of Drop Tube/Drain Valve Assembly' or Test Procedure 201.1D (TP-201.1D) 'Leak Rate of Drop Tube Overfill Prevention Devices and Spill Container Drain Valves' depending on the system configuration.

(C) Conduct a PV Vent Valve test every 24 months. A PV Vent Valve test is either CARB Vapor Recovery Test Procedure 201.1E (TP-201.1E) 'Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves' or CARB Vapor Recovery Test Procedure 201.1E (TP-201.1E) Alternate version (August 5, 2005).

(b) Stage I EVR systems with rotatable adapters must conduct a Static Torque test every 24 months. A static torque test is CARB test procedure 201.1B (TP-201.1B) 'Static Torque of Rotatable Phase I Adaptors'.

(7) Each owner or operator of a GDF choosing to use a Stage I vapor balance system other than that described in this division, must comply with the procedures specified in the provisions of 40 C.F.R. 63.6(g) before placing the alternative system into gasoline service.

(a) The owner or operator must retain documentation of EPA's approval of the alternative for as long as the alternative system is in use at the site; and

(b) The owner or operator must comply with all conditions and stipulations included with the alternative approval from EPA.

(8) Conduct of performance tests. All performance tests must be conducted under conditions based on representative performance, i.e., performance based on normal operating conditions, of the affected source. Upon request by DEQ, the owner or operator of a GDF must make available such records as may be necessary to determine the conditions of performance tests and representative performance.

(9) Owners and operators of gasoline cargo tanks subject to the provisions of OAR 340-244-0248(3) must conduct annual certification testing according to the vapor tightness testing requirements found in 40 C.F.R. 63.11092(f). EPA Method 27 as in effect on July 1, 2023 is hereby incorporated by reference. 40 C.F.R. part 60 Appendix A-8.

(10) Owners or operators of a gasoline storage tank that has a drop tube replaced not in association with the installation of a Stage I Vapor Balance system or Enhanced Vapor Recovery system must conduct and pass a 'Pressure Test' as described in section (6) within 45 days of the date a drop tube was installed.

[NOTE: This rule, excluding section (7), is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

[NOTE: View a PDF of referenced documents by clicking on 'Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0250
Gasoline Dispensing Facilities: Recordkeeping

(1) The owner or operator of a GDF must have records available within 24 hours of a request by DEQ to document gasoline throughput.

(2) Each owner or operator of a GDF must keep the following records:

(a) Records of all tests performed under this division;

(b) Records related to the operation and maintenance of all equipment in gasoline service, including Stage I vapor balance, Enhanced Vapor Recovery, and Stage II vapor recovery equipment. Any equipment in gasoline or vapor service with a defect, leak, or malfunction must be logged and tracked by the owner or operator using forms provided by DEQ or a reasonable facsimile;

(c) Records of total throughput volume of gasoline, in gallons, for each calendar month;

(d) Records of permanent changes made at the GDF and equipment in gasoline service which may affect emissions. This includes, but is not limited to, installing new gasoline storage tanks, installing new vapor control equipment, changing vapor control equipment, or removing gasoline storage tanks or vapor control equipment;

(e) Records of the occurrence and duration of each malfunction of operation, including, without limitation, malfunctions of process equipment or the air pollution control and monitoring equipment;

(f) Records of actions taken during periods of malfunction to minimize emissions in accordance with OAR 340-244-0235, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation;

(g) If subject to OAR 340-244-0245(2), submerged fill requirements, the owner or operator must keep documentation from the equipment manufacturer, a service provider, or other similar documentation which demonstrates that each submerged fill tube is a compliant length. These records must be retained for as long as the owner or operator is subject to any submerged fill requirements under OAR 340-244-0245(2); and

(h) A copy of the written plan for cleanup of spills required by OAR 340-244-0245(1)(c)(A). The plan must be retained for as long as the facility meets the definition of a GDF.

(3) Records required under section (2) must be kept for a period of 5 years, unless otherwise specified, and must be made available for inspection and review by DEQ during the course of a site visit.

(4) Each owner or operator of a gasoline cargo tank subject to the requirements in OAR 340-244-0248(3) must keep records documenting vapor tightness testing for a period of 5 years. Documentation must include each of the items specified in 40 CFR 63.11094(b)(2)(i) through (viii).

(a) Records of vapor tightness testing must include at least the following:

(A) Name of test: 'Annual Certification Test—Method 27';

(B) Cargo tank owner's name and address;

(C) Cargo tank identification number;

(D) Test location and date;

(E) Tester name and signature;

(F) Witnessing inspector, if any: Name, signature, and affiliation.

(G) Vapor tightness repair**:** Nature of repair work and when performed in relation to vapor tightness testing; and

(H) Test results: Test pressure, pressure or vacuum change, mm of water, time period of test, number of leaks found with instrument, and leak definition.

(b) Records of vapor tightness testing must be retained with the cargo tank; or

(c) As an alternative to keeping all records with the cargo tank under (4)(b), the owner or operator of a gasoline cargo tank may keep records of only the most recent vapor tightness test with the cargo tank and keep records for the previous 4 years at their office or another central location. Vapor tightness testing records that are kept at a location other than with the cargo tank must be instantly available (e.g., via e-mail or facsimile) to DEQ during the course of a site visit or within 48 hours of a request. Such records must be an exact duplicate image of the original paper copy record with certifying signatures.

(5) The owner or operator of a GDF that has an Enhanced Vapor Recovery system installed must retain records as specified within Table 2 under OAR 340-244-0246 for the specific EVR system, equipment or component. as applicable.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0251
Gasoline Dispensing Facilities: Reporting

(1) **Test Reports**. Each owner or operator of a GDF subject to the requirement to perform a test under OAR 340-244-0249 must report the results to DEQ within 30 days of the completion of the performance testing.

(2) **Annual reports**. Each owner or operator of a GDF 3, 4 or 5 must report, by February 15 of each year, the following information, as applicable:

(a) The total throughput volume of gasoline, in gallons, for each calendar month and the annual total for the previous calendar year;

(b) A summary of changes made at the GDF on any equipment in gasoline or vapor service which may affect emissions;

(c) List of all major maintenance performed on pollution control devices and equipment in gasoline service;

(d) The number, duration, and a brief description of each malfunction which occurred during the previous calendar year and which caused or may have caused any applicable emission limitation to be exceeded;

(e) A description of actions taken by the owner or operator of a GDF during a malfunction to minimize emissions in accordance with OAR 340-244-0235, including actions taken to correct the malfunction.

(3) **Initial Notifications**. Each owner or operator of a GDF 2, 3, 4, or 5 must:

(a) Submit an Initial Notification that the owner or operator is subject to the Gasoline Dispensing Facilities NESHAP by May 9, 2008, or within 120 days of becoming a GDF 2, 3, 4, or 5. The Initial Notification must contain the information specified in paragraphs (3)(a)(A) through (D). The notification must be submitted to EPA's Region 10 Office and DEQ as specified in 40 C.F.R. 63.13.

(A) The name and mailing address of the owner and the operator;

(B) The address, i.e., physical location, of the GDF;

(C) The volume of gasoline loaded into all storage tanks or the volume of gasoline dispensed from all storage tanks during the previous twelve months; and

(D) A statement that the notification is being submitted in response to the Gasoline Dispensing Facilities NESHAP and identifying the requirements in OAR 340-244-0245 that apply to the owner or operator of a GDF.

(b) The owner or operator of a GDF who has already submitted an Initial Notification does not need to submit an additional Initial Notification to comply with this section (3) unless requested to do so, in writing, by DEQ.

(4) **Notification of Compliance Status**. The owner or operator of a GDF must submit a Notification of Compliance Status to EPA's Region 10 Office and DEQ, as specified in 40 C.F.R. 63.13, within 60 days of the GDF becoming an affected source subject to the requirements of this division.

(a) The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy, must indicate whether the source has complied with the requirements of this division, and must indicate whether the GDF's throughput is calculated based on the volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks.

(b) If the owner or operator of a GDF is in compliance with the requirements of this division at the time the Initial Notification required under section (3) of this rule is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under section (3).

(c) The owner or operator of a GDF who has already submitted a Notification of Compliance Status does not need to submit an additional Notification of Compliance Status to comply with this section (4) unless requested to do so, in writing, by DEQ.

(5) **Notification of Performance Test**. The owner or operator of a GDF must submit a Notification of Performance Test, as specified in 40 C.F.R. 63.9(e), at least 60 days prior to initiating testing required by OAR 340-244-0249.

(6) The owner or operator of a GDF must submit additional notifications specified in 40 C.F.R. 63.9, as applicable.

(7) The owner or operator of a GDF that has removed, capped, or otherwise decommissioned a Stage II vapor recovery system under OAR 340-244-0247(10) must notify DEQ in writing. The notification must comply with the following:

(a) The notification is due to DEQ 30 days after completing the decommissioning;

(b) The notification must include:

(A) Pressure test results report;

(B) The physical address of the GDF;

(C) The date the work started and the date the decommissioning was completed;

(D) The name of the company or service provider entity that conducted the decommissioning work, including a contact phone number and email address;

(E) The Enhanced Vapor Recovery system equipment checklist under OAR 340-244-0246(8) documenting the EVR components that were installed;

(F) For each requirement under OAR 340-244-0247(10)(a) through (n), the date the specific step was completed and a signature or initials of the individual who certified the step was completed; and

(G) A certification statement by a responsible official of truth, accuracy, and completeness. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

[NOTE: This rule was renumbered from 340-244-0250 and combined with language from 340-244-0246 'notifications'.]

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

340-244-0252
Emission Standards for Gasoline Dispensing Facilities: General Provision Applicability

Table 3 to 40 CFR part 63 subpart CCCCCC shows which parts of the General Provisions apply to the owner or operator.

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 15-2008, f. & cert. ef 12-31-08

Division 242
RULES APPLICABLE TO THE PORTLAND AREA

Repeal all gasoline dispensing rules from division 242:

OAR 340-242-0500: Repeal

OAR 340-242-0510: Repeal

OAR 340-242-0520: Repeal

Tables included for adoption as attachments into OAR chapter 340 division 244 include:

1. OAR 340-244-0246 table attachments: Enhanced Vapor Recovery Systems, Manufacturer's Requirements, Installation Specifications, and Warranty Information
a. A copy of this attachment is listed as Attachment D of this staff report.

2. OAR 340-244-0249 table attachments: Vapor Recovery Test Procedures
a. A copy of this attachment is listed as Attachment D of this staff report.

Attachment B: Proposed Rules (Redline)

State of Oregon Department of Environmental Quality

Division 200, 216, 242 and 244 Draft Rules – Edits Highlighted

Gasoline Dispensing Facility Emissions Rulemaking

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR chapter 340, division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~November 18, 2022~~March 21 2024.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State

Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: ORS 468A & ORS 468.020
Statutes/Other Implemented: ORS 468A.035 & 468A.135
History:
DEQ 19-2022, amend filed 11/18/2022, effective 03/01/2023
DEQ 2-2022, amend filed 02/03/2022, effective 02/03/2022
DEQ 22-2021, amend filed 11/18/2021, effective 11/18/2021
DEQ 21-2021, amend filed 11/18/2021, effective 11/18/2021
DEQ 14-2021, amend filed 07/26/2021, effective 07/26/2021
DEQ 11-2021, amend filed 07/23/2021, effective 07/23/2021
DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021
DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09

DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05
DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05
DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98

DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95
DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94
DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91
DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88
DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86

DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83
DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79
DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 216
AIR CONTAMINANT DISCHARGE PERMITS

340-216-0060
General Air Contaminant Discharge Permits

(1) Applicability.

(a) DEQ may issue a General ACDP under the following circumstances:

(A) There are multiple sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and

(D) The regulated pollutants emitted are of the same type for all covered operations.

(E) DEQ may determine that a source is ineligible for a General ACDP based upon the considerations in OAR 340-216-0025(7).

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements for the operations covered by the General ACDP, excluding any federal requirements not adopted by the EQC;

(B) PSELs set at the potential to emit for the largest emitting source in the source category in the state for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance public notice procedures: A new General ACDP requires public notice as a Category III permit action according to OAR chapter 340, division 209. A reissued General ACDP or a modification to a General ACDP requires public notice as a Category II permit action according to OAR chapter 340, division 209.

(d) DEQ will retain all General ACDPs on file and make them available for public review at DEQ's headquarters.

(2) Petition for General ACDP Categories. Any person may file a petition with DEQ to add a category for a General ACDP. DEQ may use its discretion to determine whether to issue any such new General ACDP. The petition must include at least the following information:

(a) Justification for why a new General ACDP category should be developed;

(b) The approximate number of businesses that would be eligible for the General ACDP;

(c) Criteria for qualification to the General ACDP; and

(d) A list of the requirements applicable to the activities or sources that would be eligible for the new General ACDP.

(3) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application according to OAR 340-216-0040 that includes the information in 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees in OAR 340-216-8020. The fee class for each General ACDP is Fee Class One unless otherwise specified as follows:

(A) Hard chrome platers — Fee Class Three;

(B) Decorative chrome platers — Fee Class Two;

(C) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;

(D) Perchloroethylene dry cleaners — Fee Class Six;

(E) Asphalt plants — Fee Class Three;

(F) Rock crushers — Fee Class Two;

(G) Ready-mix concrete — Fee Class One;

(H) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;

(I) Boilers — Fee Class Two;

(J) Crematories — Fee Class One;

(K) Grain elevators — Fee Class One;

(L) Prepared feeds, flour, and cereal — Fee Class One;

(M) Seed cleaning — Fee Class One;

(N) Coffee roasters — Fee Class One;

(O) Bulk gasoline plants — Fee Class One;

(P) Electric power generators — Fee Class Two;

(Q) Clay ceramics — Fee Class One;

(R) Hospital sterilizers — Fee Class Four;

~~(S) Gasoline dispensing facilities — stage I — Fee Class Five;~~

(S~~T~~) Gasoline dispensing facilities — ~~stage II —~~ Fee Class Four;

(T~~U~~) Wood preserving — Fee Class Four;

(U~~V~~) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;

(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;

(ii) Spray-applied painting operation using MFHAP containing paints;

(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);

(V~~W~~) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class One;

(W~~X~~) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class Four;

(X~~Y~~) Plating and polishing — Fee Class One;

(Y~~Z~~) Surface coating operations — Fee Class One;

(Z~~AA~~) Paints and allied products manufacturing — Fee Class Two; and

(AA~~BB~~) Emergency generators and firewater pumps, if a permit is required – Fee Class Two.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements according to OAR chapter 340, division 209.

(B) A person is not a permittee under the General ACDP until DEQ assigns the General ACDP to the person.

(C) Assignments to General ACDPs and attachments terminate when the General ACDP or attachment expires or is modified, terminated or revoked.

(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all applicable requirements, excluding any federal requirements not adopted by the EQC, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments according to OAR 340-216-0062, otherwise the owner or operator of the source must obtain a Simple or Standard ACDP.

(E) An owner or operator of a source requesting to be assigned to a General ACDP Attachment, according to OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned, must be reassigned to the General ACDP for the source category in the higher annual fee class.

(4) DEQ Initiated Modification. If DEQ determines that the conditions have changed such that a General ACDP for a category needs to be modified, DEQ may issue a modified General ACDP for that category and assign all existing General ACDP permit holders to the modified General ACDP.

(5) Rescission. DEQ may rescind a permittee's assignment to a General ACDP if the permittee's source no longer meets the requirements or qualification conditions of the permit. In such case, the permittee must ~~submit an application~~apply within 60 days for a Simple or Standard ACDP upon notification by DEQ of DEQ's intent to rescind the General ACDP. Upon issuance of the Simple or Standard ACDP, or if the permittee fails to ~~submit an application~~apply for a Simple or Standard ACDP, DEQ will rescind the permittee's assignment to the General ACDP.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 19-2022, amend filed 11/18/2022, effective 03/01/2023
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 128-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 10-2001, f. & cert. ef. 8-30-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725
DEQ 14-1998, f. & cert. ef. 9-14-98

Division 244
OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0030
General Provisions for Stationary Sources: Definitions

Except as provided in OAR 340-244-0220 and -0231~~2~~, the definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) "Affected source" is as defined in 40 C.F.R. 63.2.

~~(2) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.~~

(2~~3~~) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(3~~4~~) "C.F.R." means the July 1, 2020 edition Code of Federal Regulations unless otherwise identified.

(5~~4~~) "Construct a major source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

~~(6) "Dual-point vapor balance system" means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.~~

(5~~7~~) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by DEQ or Regional Agency, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(6~~8~~) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(79) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(810) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(911) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.

~~(12) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.~~

~~(13) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland Air Quality Maintenance Area, and the Salem-Keizer Area Transportation Study area, "gasoline dispensing facility" includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.~~

(104) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(115) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(126) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

~~(17) "Monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded~~

~~into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.~~

(13~~8~~) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(14~~9~~) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(15~~20~~) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(16~~21~~) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(17~~22~~) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(18~~23~~) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(19~~24~~) "Regulated Air Pollutant" as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(20~~5~~) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(216) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(227) "Solid Waste Incineration Unit" as used in this Division has the same meaning as given in Section 129(g) of the FCAA.

(238) "Stationary Source", as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

~~(29) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0240(3) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.~~

~~(30) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.~~

~~(31) "Vapor balance system" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.~~

~~(32) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.~~

~~(33) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).~~

[Publications: Publications referenced are available from DEQ.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:
DEQ 5-2022, amend filed 04/07/2022, effective 04/07/2022
DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 6-2017, f. & cert. ef. 7-13-17
DEQ 8-2015, f. & cert. ef. 4-17-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120
DEQ 18-1998, f. & cert. ef. 10-5-98
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 18-1993, f. & cert. ef. 11-4-93
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0100
Compliance Extensions for Early Reductions: Applicability

The requirements of 40 C.F.R. Part 63, Subpart D apply to an owner or operator of an existing source who wishes to obtain a compliance extension and an alternative emission limit from a standard issued under Section 112(d) of the FCAA. Any owner or operator of a facility who elects to comply with a compliance extension and alternative emission limit issued under this section must complete a permit application as prescribed in 40 C.F.R. 63.77.

Statutory/Other Authority: ORS 468.020 & 468A.310
Statutes/Other Implemented: ORS 468A.310
History:
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0300
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0200
Compliance Extensions for Early Reductions: Emissions Limitation for New and Reconstructed Major Sources

(1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to Section 112(d), Section 112(n), or Section 129 of the FCAA must comply with the requirements and emission standard for new sources when promulgated by EPA.

(2) State MACT. Any person who proposes to construct or reconstruct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program must comply with new and reconstructed source MACT requirements of 40 C.F.R. Part 63, Subpart B.

(3) Compliance schedule. The owner or operator of a new or reconstructed source must on and after the date of start-up, be in compliance with all applicable requirements specified in the Federal or State MACT.

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0500
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0210
Emission Standards: Emissions Limitation for Existing Sources

(1) Federal MACT. Existing major and area sources must comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA and adopted by rule within this Division.

(2) State MACT. If the EPA fails to meet its schedule for promulgating a MACT standard for a source category or subcategory, DEQ must approve HAP emissions limitations for existing major sources within that category or subcategory according to 40 C.F.R. Part 63, Subpart B.

(a) The owner or operator of each existing major source within that category will file permit applications in accordance with OAR 340-218-0040 and 40 C.F.R. Part 63, Subpart B.

(b) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source that is more stringent than the one established pursuant to this section, DEQ must revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source will be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated;

(c) DEQ will not establish a case-by-case State MACT:

(A) For existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR chapter 340, division 230; or

(B) For existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.

(3) Compliance schedule:

(a) The owner or operator of the source must comply with the emission limitation:

(A) Within the time frame established in the applicable Federal MACT standard, but in no case later than three years from the date of federal promulgation of the applicable MACT requirements; or

(B) Within the time frame established by DEQ where a state-determined MACT has been established or a case-by-case determination has been made.

(b) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology or has been required to meet Lowest Achievable Emission Rate before the promulgation of a federal MACT applicable to that emissions unit is required to comply with such MACT standard until 5 years after the date on which such installation or reduction has been achieved, as determined by DEQ.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.310
History:
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0505
DEQ 18-1998, f. & cert. ef. 10-5-98, Renumbered from 340-032-2500
DEQ 7-1998, f. & cert. ef. 5-5-98
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0231
Gasoline Dispensing Facilities: Purpose

Rules under OAR 340-244-0231 through -0252 establish emission limitations and management practices for hazardous air pollutants and volatile organic compounds emitted from the loading of gasoline storage tanks and dispensing of fuel at gasoline dispensing facilities. OAR 340-244-0231 through -0252 also establish requirements to demonstrate compliance with the emission limitations and management practices.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2008, f. & cert. ef 12-31-08

340-244-0231~~1~~2
Gasoline Dispensing Facilities: Definitions

The following definitions apply to OAR 340-244-0232 through -025~~1~~2. If the same term is defined in this rule and OAR 340-200-0020, 340-244-0030, or 340-218-0030, the definition in this rule applies to OAR 340-244-0231~~2~~ through -025~~1~~2.

(1) "Annual throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a year. Annual throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days~~the amount of gasoline transferred into a gasoline dispensing facility during a 12 consecutive month period~~.

(2) “Aviation gasoline” means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications are found in ASTM Specification D910–07a.

(3~~2~~) “CARB” means the California Air Resources Board.

(4) “Dual-point” means a storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(5~~3~~) “Dual-point vapor balance system~~ vapor balance system~~” ~~or “dual point” ~~means a type of Stage I vapor balance system in which the ~~type of vapor balance system in which the~~ storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(6~~4~~) "Enhanced Conventional nozzle (ECO nozzle)” means a gasoline dispensing nozzle which does not exceed a spillage rate of 0.12 lbs/1000 gallons, liquid retention which does not exceed 100 mL/1000 gallons, spitting which does not exceed 1.0 mL per nozzle per test and post-fueling drips which do not exceed three Drops/Refueling. A nozzle certified by CARB through an executive order as an ECO nozzle will be considered compliant with this definition.

(7~~5~~) “Enhanced Vapor Recovery (EVR; Stage I EVR)” means a complete vapor balance system which includes all components outlined in California Air Resources Board executive order VR-101, VR-102, VR-104, or VR-105 as of December 1, 2023. The specific equipment and requirements for an EVR system are found in Table 2 of this division.

~~(6) “Equivalent control” means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by DEQ, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology on an hourly, daily, weekly, monthly, and annual basis.~~

(87) “Existing” means a GDF ~~that had commenced construction and the owner/operator had submitted all required construction notification and permit applications as of July 1, 2024 and is not reconstructed.~~that is not new or reconstructed.

(98) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(109) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.

(1110) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland AQMA, and the Salem-Keizer Area Transportation Study, “gasoline dispensing facility” includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.

(121) “Medford-Ashland AQMA” is as defined in Oregon Administrative Rules chapter 340 division 204.

~~(12) "Monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.~~

(133) “New” means a GDF for which an owner or operator had commenced construction after November 9, 2006. ~~not existing.~~

(144) “ORVR” means Onboard Refueling Vapor Recovery system. This is the system in a motor vehicle, part of the fuel vapor emission control system, and is used to capture volatile organic compounds during the refueling process.

(155) “Portland AQMA” is as defined in Oregon Administrative Rules chapter 340 division 204.

(166) “Reconstructed” means meeting the criteria for reconstruction as defined in 40 C.F.R. 63.2.

(177) "Salem-Keizer (SKATS)” is as defined in Oregon Administrative Rules chapter 340 division 204.

(188) "Stage I vapor balance system (Stage I)" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(199) "Stage II vapor recovery system (Stage II)" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

(2020) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0245(2) from the bottom of the tank. Bottom filling of gasoline storage tanks is also submerged filling. .

(211) "Throughput" means the volume of gasoline loaded into, or dispensed from, gasoline storage tanks at a GDF.

(222) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(233) "Vapor balance system" means Stage I vapor balance system.

~~(24) "Vapor recovery system" means Stage II vapor recovery system.~~

(245) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(256) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.040
History:

~~**340-244-0232**~~
~~**Emission Standards for Gasoline Dispensing Facilities: Purpose**~~

~~This~~ese ~~rule~~s ~~establishes emission limitations and management practices for hazardous air pollutants and volatile organic compounds emitted from the loading of gasoline storage tanks~~

and dispensing of fuel at gasoline dispensing facilities. Theseis rules also establishes requirements to demonstrate compliance with the emission limitations and management practices.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2008, f. & cert. ef 12-31-08

340-244-0234
Emission Standards for Gasoline Dispensing Facilities: Affected Equipment and Sources

(1) The emission sources to which the Gasoline Dispensing Facilities rules under OAR 340-244-0231 through 340-244-02521 apply are gasoline storage tanks and all associated equipment components in vapor or liquid gasoline service at a GDF.

(21) The affected source to which the emission standards apply is each GDF. The affected source includes each gasoline cargo tank during the delivery of product gasoline to a GDF, and also includes each gasoline storage tank, pressure/vacuum vents on gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at a GDF.

(32) The emissions standards in OAR 340-244-02360231 through 340-244-025212 do not apply to agricultural operations as defined in ORS 468A.020. Agricultural operations are however required to comply with the Gasoline Dispensing NESHAP, if applicable (40 C.F.R. part 63 subpart CCCCCC).

(4) Each GDF will fall into one or more of the categories listed in this subsection. Where multiple categories apply to one GDF, the requirements of each applicable category apply to that GDF. Each GDF category is followed by a number which is used to indicate which rules in this division apply to that GDF:

(a) A GDF located anywhere in the state that has only gasoline storage tanks with capacity of less than 250 gallons, hereafter referred to as GDF 1.

(b) A GDF located anywhere in the state with a gasoline storage tank that has a capacity of 250 gallons or more, hereafter referred to as GDF 2.

(c) A GDF located anywhere in the state with 120,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 3.

(d) A GDF located anywhere in the state with 600,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 4.

(e) A GDF located anywhere in the state with 1,000,000 gallons or more of annual gasoline throughput, hereafter referred to as GDF 5.

(5) ~~(7)~~ The owner or operator of a GDF~~, as defined in section this rule (1),~~ is not required to obtain an Oregon Title V Operating Permit as a result of being subject to OAR 340-244-0231~~6~~ through 340-244-0252~~1~~ However, the owner or operator of a GDF must still apply for and obtain an Oregon Title V Operating Permit if meeting one or more of the applicability criteria found in 340-218-0020.

(6) The loading of aviation gasoline storage tanks at airports, and the subsequent transfer of aviation gasoline within the airport, is not subject to OAR 340-244-0231 through 340-244-025~~1~~2, except in Clackamas, Multnomah, and Washington Counties, Medford-Ashland AQMA and the Salem-Keizer SKATS. In these geographic areas, aviation gasoline is subject to 340-244-0231 through 340-244-025~~1~~2.

(7) The dispensing of gasoline from a fixed gasoline storage tank at a GDF into a portable gasoline tank for the on-site delivery and subsequent dispensing of the gasoline into the fuel tank of a motor vehicle or other gasoline-fueled engine or equipment used within the area source is only subject to OAR 340-244-0245(1).

(8) If the affected source ever exceeds an applicable threshold, throughput or otherwise, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source later falls below the applicable threshold.

(9) For a source that becomes subject to a requirement to install a Stage I vapor balance system, Enhanced Vapor Recovery system, or complete any other equipment change because of an increase in throughput, the owner or operator must have completed the equipment changes no later than 24 months after the affected source becomes subject to the additional or changed requirement, unless otherwise specified within this division.

(10) A split compartment gasoline storage tank (i.e., one storage tank that is internally divided to hold two or more different types of liquid) will have each compartment of the tank treated as a separate storage tank for purposes of compliance with OAR 340-244-0231 through -025~~1~~2.

(11) The owner or operator of a new GDF, a reconstructed GDF that has ever had ~~monthly~~annual throughput of 1,000,000 gallons of gasoline or more, or any new or replaced storage tank(s) at a GDF that has ever had ~~monthly~~annual throughput of 1,000,000 gallons of gasoline or more must comply with OAR 340-244-0248(1).

(12) All equipment installed at a GDF that is in gasoline liquid or vapor service must be compatible with gasoline according to the equipment manufacturer's instructions or documentation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.].

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0239~~5~~
Gasoline Dispensing Facilities: General Duties to Minimize Emissions

(1) The owner or operator of a~~n affected source~~ GDF must, at all times, operate and maintain ~~any affected source~~ all equipment, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to DEQ ~~and the EPA Administrator~~ which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(2) Compliance with this rule does not exempt the owner or operator from enforcement for any noncompliance with applicable requirements during a malfunction event.

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

OAR 340-244-0237
Gasoline Dispensing Facilities: GDF 1

The owner or operator of a GDF 1 as described in OAR 340-244-0234(4) must comply with the following requirements:

(1) Work Practices, No Top Off, and Submerged Fill under OAR 340-244-0245; and

(2) Recordkeeping under OAR 340-244-0250.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.~~

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0238
Gasoline Dispensing Facilities: GDF 2

The owner or operator of a GDF 2 as described in OAR 340-244-0234(4) must comply with the following requirements:

(1) All applicable requirements under OAR 340-244-0237; and

(2) Reporting under OAR 340-244-0251.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.~~

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0241
Gasoline Dispensing Facilities: GDF 3

(1) The owner or operator of a GDF 3 as described in OAR 340-244-0234(4) must comply with the following requirements:

(a) All applicable requirements under OAR 340-244-0238; and

(b) Testing requirements under OAR 340-244-0249.

(2) The owner or operator of a ~~**new**~~ GDF 3 which commenced construction on or after July 1, 2024 must comply with OAR 340-244-0248 and install a dual-point vapor balance ~~Stage I~~ system on each gasoline storage tank with 250 gallon or greater capacity. Notwithstanding the testing requirements of OAR 340-244-0249, a complete Stage I vapor balance system must be installed before equipment is placed into gasoline service.

(3) The owner or operator of a~~n~~ ~~**existing**~~ GDF 3 which commenced construction before July 1, 2024 must comply with OAR 340-244-0248 and install a dual-point vapor balance ~~Stage I~~ system on each new or replaced gasoline storage tank with 250 gallon or greater capacity.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.].

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0242
Gasoline Dispensing Facilities: GDF 4

(1) The owner or operator of a GDF 4 as described in OAR 340-244-0234(4) must comply with all applicable requirements under OAR 340-244-0241;

(2) The owner or operator of a ~~**new**~~ GDF 4 which commenced construction on or after July 1, 2024 must comply with the following for each gasoline storage tank with 250 gallon or greater capacity:

(a) Each storage tank must be dual--point; and

(b) Install an Enhanced Vapor Recovery system on each storage tank and ECO nozzles on each gasoline dispenser under OAR 340-244-0246.

(3) The owner or operator of a~~n~~ ~~**existing**~~ GDF 4 which commenced construction before July 1, 2024 without a Stage II vapor recovery system must comply with the following:

(a) Each new, replaced, or reconstructed gasoline storage tank with 250 gallon or greater capacity must be dual--point and install an Enhanced Vapor Recovery system under OAR 340-244-0246; and

(b) The owner or operator must install ECO nozzles on all gasoline dispensers at the time any gasoline storage tank is required to install an Enhanced Vapor Recovery system.

(4) The owner or operator of a ~~n **existing**~~ GDF 4 which commenced construction before July 1, 2024 and which has a complete Stage II vapor recovery system must comply with OAR 340-244-0247.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.].

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-0243
Gasoline Dispensing Facilities: GDF 5

(1) The owner or operator of a GDF 5 as described in OAR 340-244-0234(4) must comply with all applicable requirements under OAR 340-244-0242;

(2) The owner or operator of a ~~**new G**~~GDF 5 which commenced construction on or after July 1, 2024 must comply with the following for each gasoline storage tank with 250 gallon capacity or greater:

(a) The gasoline storage tank must be dual--point; and

(b) Install an Enhanced Vapor Recovery system on each storage tank and ECO nozzles on each gasoline dispenser under OAR 340-244-0246.

(3) The owner or operator of a~~**n existing**~~ GDF 5 which commenced construction before July 1, 2024 must comply with the following by no later than December 31, 2029 or 24 months after becoming a GDF 5, whichever is later, for each gasoline storage tank with greater than 250 gallon capacity:

(a) Install an Enhanced Vapor Recovery system on each dual--point gasoline storage tank under OAR 340-244-0246;

(b) Install ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246. An owner or operator of a GDF 5 that has a compatible Stage II vapor recovery system may delay the installation of ECO nozzles until the Stage II vapor recovery system is capped, removed, or otherwise decommissioned ~~under~~according to OAR 340-244-0247; and

(c) Each new or replaced gasoline storage tank must be dual--point and have an Enhanced Vapor Recovery system installed under OAR 340-244-0246 before the tank is brought into gasoline service.

(4) The owner or operator of a~~n existing~~ GDF 5 which commenced construction before July 1, 2024 subject to this rule must install, maintain and operate a complete vapor balance system under OAR 340-244-0248 on all single point gasoline storage tanks with 250 gallon capacity or greater.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.~~

Statutory/Other Authority: ORS 468.020, 468A.025
Statutes/Other Implemented: ORS 468A.025
History:

OAR 340-244-024~~0~~5
Gasoline Dispensing Facilities: Work Practices, No Top Off, and Submerged Fill

(1) **Work Practices.** The owner or operator of a GDF must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

(a) Minimize gasoline spills;

(b) **Do not top off** or overfill vehicle tanks.

(A) If a person can confirm that a vehicle tank is not full after the nozzle clicks off, such as by checking the vehicle's fuel tank gauge, the person may continue to dispense fuel using best judgment and caution to prevent a spill;

(B) Post ~~a~~ sign(s) at the GDF instructing a person filling up a motor vehicle to not top off the vehicle tank. A sign must be placed on each gasoline dispenser, or on a permanent fixture within six feet of the dispenser, and be clearly visible to an individual using the hose and nozzle to dispense gasoline;

(c) Clean up spills as expeditiously as practicable. The owner or operator must develop a written plan that describes how a spill will be cleaned up upon occurrence. The plan must include, but is not limited to, where spill materials are located, a brief description of how each is used, and an explanation of how the owner or operator is implementing the 'as expeditiously as practicable' requirement of this subsection (c).

(d) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;

(e) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(f) Ensure that cargo tanks unloading gasoline at the GDF comply with subsections (1)(a) through ~~(e)~~ (d).

(2) **Submerged Fill.** Except ~~as specified in section (4)~~ for gasoline storage tanks with a capacity of less than 250 gallons, the owner or operator of a GDF must only load gasoline into storage tanks at the ~~facility~~GDF by utilizing submerged filling, as defined in OAR 340-244-0~~0~~2301~~0~~12, and as specified in subsection ~~(3)~~(2)(a), ~~(3)~~(2)(b), or ~~(3)~~(2)(c). The applicable distances in subsections ~~(3)~~(2)(a) and ~~(3)~~(2)(b) must be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage tank.

(a) Submerged fill pipes installed on or before Nov. 9, 2006, must be no more than 12 inches from the bottom of the storage tank.

(b) Submerged fill pipes installed after Nov. 9, 2006, must be no more than 6 inches from the bottom of the storage tank.

(c) Submerged fill pipes not meeting the specifications of subsection (2)(a) or (2)(b) are allowed if the owner or operator of a GDF can demonstrate that the liquid level in the tank is

and always has been above the entire opening of the fill pipe. Documentation providing such demonstration must be made available for inspection by DEQ ~~and the EPA Administrator~~ during the course of a site visit or upon request within 48 hours.

(3) **Cargo Tank Unloading.** Any cargo tank unloading at a GDF that is equipped with a ~~functional~~ Stage I vapor balance system or Enhanced Vapor Recovery system must connect to the ~~vapor balance~~ system whenever gasoline is being loaded.

(4) Portable gasoline containers that meet the requirements of 40 C.F.R. part 59 subpart F are considered acceptable for compliance with subsection (1)~~(e)~~(d).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.~~

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0246
Gasoline Dispensing Facilities: Enhanced Vapor Recovery Requirements

(2) All storage tanks referred to this rule that are new, replaced, or reconstructed after July 1, 2024 ~~gasoline storage tanks referred to this rule~~ must be equipped with CARB certified Stage I Enhanced Vapor Recovery equipment ~~or an equivalent approved by DEQ~~ before being placed into gasoline service. CARB certified Enhanced Vapor Recovery system components are listed in Table 2 of this rule.

(2) All gasoline dispensing nozzles at a GDF referred to this rule and not in Stage II vapor recovery service must be Enhanced Conventional Nozzles by no later than July 1, 2024, unless otherwise specified.

(3) Any alteration of the equipment, parts, design, or operation of the ~~Stage I~~ Enhanced Vapor Recovery system as certified by CARB is prohibited and must not be performed ~~without prior approval from DEQ~~.

(4) The owner or operator of a GDF referred to this rule must comply with the following:

(a) In order to ensure that the Enhanced Vapor Recovery equipment is maintained to be vapor tight and in good working order, have the equipment inspected on at least an annual basis to discover potential or actual equipment failures. Some components require more

frequent inspection or maintenance. Where this annual inspection requirement and Table 2 conflict, the more frequent inspection or maintenance requirement applies;

(b) Replace, repair or modify the affected component or design element within 24 hours after the owner or operator knows or reasonably should know of the component or design element being worn or ineffective to ensure the vapor-tight integrity and efficiency of the Enhanced Vapor Recovery system. If repair parts must be ordered, either a written or oral order for those parts must be initiated within two working days of detecting such a leak. Such repair parts must be installed within five working days after receipt; and

(c) Maintain spill containers (buckets) for gasoline storage tanks free of liquid and solid materials.

(5) The owner or operator of a GDF equipped with an Enhanced Vapor Recovery system must operate and maintain all EVR components in accordance with manufacturer's specifications and Table 2 of this rule ~~unless otherwise approved by DEQ in writing~~.

(6) The owner or operator of a GDF equipped with an EVR system must retain records as specified under OAR 340-244-0250 and Table 2 of this rule for the applicable EVR equipment or component.

(7) An owner or operator of a GDF required to install a Stage I EVR system may install components from different sections of Table 2 of this rule (i.e., 'mix and match') as long as each component specified in each section of Table 2 has a CARB approved component installed and the complete EVR system can pass all required performance tests.

(8) The owner or operator must maintain an equipment installation checklist or similar (e.g., record) which clearly documents which components were installed on each affected gasoline storage tank. The equipment installation checklist or similar document must be replaced, updated or revised each time a required EVR component is replaced.

[Note: For additional information on Enhanced Vapor Recovery systems, including manufacturer's requirements, installation specifications, and warranty information, please see the applicable California Air Resources Board Executive Orders.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.~~

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:

OAR 340-2424-0520247
Gasoline Dispensing Facilities: Stage II Vapor Recovery System

(1) The owner or operator of a~~n existing~~ GDF with a Stage II vapor recovery system referred to this rule must determine, by no later than July 1, 2024, whether the currently installed Stage II vapor recovery system is compatible or incompatible with motor vehicle Onboard Refueling Vapor Recovery systems (ORVR). A Stage II vapor recovery system is incompatible with ORVR, for example, if it actively draws gasoline vapor during dispensing and does not cease the vacuum draw when dispensing gasoline into an ORVR-equipped motor vehicle.

(a) Owners or operators with ORVR **compatible** Stage II vapor recovery systems must comply with section (2) of this rule; and

(b) Owners or operators with ORVR **incompatible** Stage II vapor recovery systems must comply with sections (3) or (4) of this rule.

(2) The owner or operator of an ORVR-compatible Stage II vapor recovery system may remove the Stage II vapor recovery system if the following conditions are met:

(a) The owner or operator complies with notice of construction requirements of division 210, as applicable;

(b) The owner or operator installs a complete Enhanced Vapor Recovery system on each gasoline storage tank with 250 gallon capacity or greater under OAR 340-244-0246;

(c) The owner or operator installs ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246;

(d) The Enhanced Vapor Recovery system and ECO nozzles must be installed no later than the same calendar day the complete Stage II vapor recovery system is uninstalled, capped, or otherwise decommissioned according to OAR 340-244-0247, except as provided in subsection (2)(e);

(e) If the owner or operator is not dispensing any gasoline from or loading any gasoline into any gasoline storage tanks at the facility, the Enhanced Vapor Recovery system and ECO nozzles must instead be installed before any gasoline is dispensed from or loaded into any gasoline storage tank at the facility.

(3) The owner or operator of an ORVR-incompatible Stage II vapor recovery system must remove, cap, or otherwise decommission the Stage II vapor recovery system no later than December 31, 2025~~4~~ in accordance with OAR 340-244-0247(10) and:

(a) Comply with the notice of construction requirements of division 210, as applicable;

(b) Install a complete Enhanced Vapor Recovery system on each gasoline storage tank with 250 gallon capacity or greater under OAR 340-244-0246;

(c) Install ECO nozzles on each gasoline dispensing hose under OAR 340-244-0246;

(d) The Enhanced Vapor Recovery system and ECO nozzles must be installed no later than the same calendar day the complete Stage II vapor recovery system is uninstalled, capped, or otherwise decommissioned according to OAR 340-244-0247, except as provided in subsection (3)(e);

(e) If the owner or operator is not dispensing any gasoline from or loading any gasoline into any gasoline storage tanks at the facility, the Enhanced Vapor Recovery system and ECO nozzles must instead be installed before any gasoline is dispensed from or loaded into any gasoline storage tank at the facility.

(4) The owner or operator of an incompatible Stage II vapor recovery system must install a compatible Stage II vapor recovery system no later than December 31, 20254, and comply with the notice of construction requirements of division 210, as applicable.

(5) No owner or operator of a GDF may transfer or allow the transfer of gasoline into a motor vehicle fuel tank using a Stage II vapor recovery system that is incompatible with motor vehicle ORVR systems after December 31, 20254.

(6) An owner or operator of a GDF that wants to install an ORVR-compatible Stage II vapor recovery system when not otherwise required to do so by this division must submit a notice of construction under division 210 and receive written DEQ approval before installing the equipment.

[NOTE: Underground piping requirements are described in OAR chapter 340 division 150 and 40 C.F.R. 280.20(d). Systems installed according to Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems", RP300, "Installation and Testing of Vapor Recovery Systems", or American Society of Mechanical Engineers Standard B31.4 "Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids" or manufacturer specifications are considered approved systems.]

(7) Owners and/or operators of gasoline-dispensing facilities subject to with sStage II vapor recovery systems collection requirements must:

(a) Provide adequate training and written instructions to the operator of the affected gasoline-dispensing facility and the gasoline transport vehicle. Written instructions must be readily available to onsite staff, contractors, and similar individuals (electronic or hardcopy);

(b) Inspect all components of the Stage II vapor recovery system, including but not limited to all hoses and nozzles, at least once every three months;

(c) Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the sStage II vapor collection recovery systems. ;The affected component or design element must be replaced, repaired, or modified within 24 hours after the owner or operator knows or reasonably should know of the component or

design element being worn on ineffective to ensure the vapor-tight integrity and efficiency of the Stage II vapor recovery system. If repair parts must be ordered, either a written or oral order for those parts must be initiated within two working days of detecting such a leak. Such repair parts must be installed within five working days after receipt; and

(d) Connect and ensure proper operation of the ~~s~~Stage II vapor ~~collection~~ recovery systems whenever gasoline is being loaded, unloaded or dispensed.

(8~~7~~) Approval of a ~~s~~Stage II vapor recovery system by DEQ does not relieve the owner ~~and/~~or operator of the responsibility to comply with other applicable codes and regulations, including, without limitation, those pertaining to fire prevention, weights and measures, and safety matters.

(9~~8~~) Regarding installation, removal, decommissioning and testing of piping for ~~s~~Stage II vapor ~~collection~~ recovery systems:

(a) Piping must be installed, modified, decommissioned or removed in accordance with standards in OAR 340 division 150 as applicable;

(b) Piping must be installed, modified, decommissioned or removed by a licensed service provider pursuant to OAR 340 division 160 as applicable; and

(c) Piping must be tested prior to being placed into operation by an installation or tank tightness testing service provider licensed pursuant to OAR 340 division 160 as defined by the appropriate testing method.

(10) Stage II vapor recovery system decommissioning. The owner or operator of a GDF that is removing, capping, or otherwise decommissioning a Stage II vapor recovery system must comply with the following during the decommissioning, as applicable:

(a) Initiate all appropriate safety procedures;

(b) Relieve pressure in tank ullage;

(c) Drain liquid-collection points;

(d) Disconnect all vapor pumping or processing units;

(e) Disconnect all electrical components of the Stage II vapor recovery system so that no electrics hazards are created;

(f) Reprogram the dispenser electronics to reflect that the Stage II vapor recovery system is no longer in service;

(g) Securely seal off the below grade vapor piping at height below the level of the base of the dispenser and capped with compatible cap material;

(h) Securely seal off the below grade vapor piping at the tank end if it is easily accessible and cap with compatible material;

(i) Securely seal off the vapor piping inside the dispenser and cap with compatible material;

(j) Replace Stage II vapor recovery system hanging hardware with conventional hanging hardware or Enhanced Conventional Nozzles, as applicable;

(k) Install appropriate Pressure Vacuum Vent valves;

(l) Remove any instructions from the dispenser cabinet;

(m) Conduct a pressure test for all gasoline storage tanks above 250 gallon capacity at the site according to OAR 340-244-0249(6)(a)(A); and

(n) Verify visible components of storage tank are left in condition that will reliably prevent the release of vapors/liquids from any system component.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.].

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
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DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0402
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 16-1996, f. & cert. ef. 8-14-96
DEQ 25-1994, f. & cert. ef. 11-22-94
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91)

OAR 340-244-02482 ~~OAR 340-242-0242 Table 2 & 3~~
Gasoline Dispensing Facilities: Stage I Vapor Balance System

(1) The owner or operator of a GDF or storage tank referred to this rule, except for gasoline storage tanks with floating roofs or the equivalent, must meet each of the following management practice and equipment requirements for a Stage I vapor balance system on each gasoline storage tank:

(a) All vapor connections and lines on the storage tank must be equipped with closures that seal upon disconnect;

(b) The vapor line from the gasoline storage tank to the gasoline cargo tank must be vapor-tight, as defined in OAR 340-244-0231~~2~~2;

(c) The Stage I vapor balance system must be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer;

(d) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, must be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations;

(e) If a gauge well separate from the fill tube is used, it must be provided with a submerged drop tube that extends the same distance from the bottom of the storage tank as specified in OAR 340-244-0245(2);

(f) Liquid fill and vapor return connections for all systems must be equipped with vapor-tight caps;

(g) Pressure/vacuum (PV) vent valves must be installed on the storage tank vent pipes. The pressure specifications for PV vent valves must be a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, must not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of 4 inches of water; and

(h) The vapor balance system must be capable of meeting the static pressure performance requirement of the following equation:

$$Pf = 2e^{-500.887/v}$$

Where:

Pf = Minimum allowable final pressure, inches of water.

V = Total ullage affected by the test, in gallons.

E = Dimensionless constant equal to approximately 2.718.

2 = The initial pressure, in inches water.

- (2) The owner or operator of a new GDF, a reconstructed GDF that has ever had ~~monthly~~annual throughput of 1,000,000 gallons of gasoline or more, or any new or replaced storage tank(s) at a GDF that has ever had ~~monthly~~annual throughput of 1,000,000 gallons of gasoline or more must install and operate a dual-point ~~Stage I v~~vapor balance system, as defined in OAR 340-244-0231~~2~~2, on each affected gasoline storage tank and comply with the design criteria in section (1) of this rule.

(3) The owner or operator of a cargo tank unloading at a GDF must comply with the requirements of OAR 340-244-~~0240~~0245(1) and must not unload gasoline into a storage tank at a GDF with a Stage I vapor balance system unless the following conditions are met:

(a) All hoses in the vapor balance system are properly connected;

(b) The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect;

(c) All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight;

(d) All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank;

(e) All hatches on the tank truck are closed and securely fastened; and

(f) The filling of storage tanks at GDF must be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 must be carried on or with the cargo tank.

(4) The owner or operator of a ~~GDFsubject to section (1) or having a~~ gasoline storage tank ~~equipped with a vapor balance system, must comply with the following requirements on and after the applicable compliance date in OAR 340-244-0238~~ referred to this rule must comply with the following requirements:

(a) When loading a gasoline storage tank equipped with a ~~s~~Stage I vapor balance system, connect and ensure the proper operation of the system whenever gasoline is being loaded;

(b) Maintain all equipment associated with the Stage I vapor balance system to be vapor tight and in good working order;

(c) In order to ensure that the ~~s~~Stage I vapor balance equipment is maintained to be vapor tight and in good working order, have the vapor balance equipment inspected ~~on an annual basis~~ every six months to discover potential or actual equipment failures; and

(d) Replace, repair or modify ~~any~~ the affected~~worn or ineffective~~ component or design element within 24 hours after the owner or operator knows or reasonably should know of the component or design element being worn on ineffective to ensure the vapor-tight integrity and efficiency of the Stage I vapor balance system. If repair parts must be ordered, either a written or ~~verbal~~ oral order for those parts must be initiated within ~~2~~two working days of detecting such a leak. Such repair parts must be installed within ~~5~~five working days after receipt.

(5) The owner or operator of a GDF or storage tank referred to this rule must:

(a) Maintain spill containers (buckets) for gasoline storage tanks free of liquid and solid materials;

(b) Equip gasoline dispensing hoses with ~~a CARB or DEQ approved~~an emergency breakaway device designed to retain liquid on both sides of a breakaway point. When hoses are attached to a hose-retrieving mechanism, the emergency breakaway device must be located between the hose nozzle and the point of attachment of the host retrieval mechanism to the hose; and

(c) Limit the maximum flow rate from each dispenser to no more than 10 gallons per minute (37.9 liters per minute). The flow rate may be controlled through any means in the pump/dispenser system, provided the flow rate limit is complied with. Any dispensing pump that is dedicated exclusively to heavy-duty vehicles, boats, or airplanes is exempt from this requirement.

(6) In any instance in which the applicable equipment or requirements of this rule directly conflict with applicable equipment or requirements of the Enhanced Vapor Recovery rule under OAR 340-244-0246, the EVR requirements and rule -0246 will supersede this rule.

[~~[~~NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.]~~

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 149-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-02494
Gasoline Dispensing Facilities: **Testing and Monitoring Requirements**

~~(1) Each owner or operator of a GDF, at time of installation, as specified in OAR 340-244-0238(4), of a vapor balance system required under 340-244-0242(1)(a), and every 3 years thereafter at a GDF with monthly throughput of 100,000 gallons of gasoline or more, must comply with the requirements in subsections (1)(a) and (b).~~

~~(a) The owner or operator of a GDF must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 2 of OAR 340-244-0242, for pressure-vacuum vent valves installed on gasoline storage tanks using the test methods identified in paragraph (1)(a)(A) or (B).~~

~~(A) California Air Resources Board Vapor Recovery Test Procedure TP–201.1E, — Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted Oct. 8, 2003 (incorporated by reference, see 40 CFR 63.14).~~

~~(B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f).~~

~~(b) The owner or operator of a GDF must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 2 of OAR 340-244-0242, for the vapor balance system by conducting a static pressure test on the gasoline storage tanks using the test methods identified in paragraph (1)(b)(A), (1)(b)(B), or (1)(b)(C).~~

~~(A) California Air Resources Board Vapor Recovery Test Procedure TP–201.3, — Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (incorporated by reference, see 40 CFR 63.14).~~

~~(B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 CFR 63.7(f).~~

~~(C) Bay Area Air Quality Management District Source Test Procedure ST-30 — Static Pressure Integrity Test — Underground Storage Tanks, adopted Nov. 30, 1983, and amended Dec. 21, 1994 (incorporated by reference, see 40 CFR 63.14).~~

~~(2) Each owner or operator of a GDF, choosing, under the provisions of 40 CFR 63.6(g), to use a vapor balance system other than that described in Table 2 of OAR 340-244-0242, must demonstrate to DEQ or upon request by the EPA Administrator, the equivalency of their vapor balance system to that described in Table 2 of OAR 340-244-0242 using the procedures specified in subsections (2)(a) through (c).~~

~~(a) The owner or operator of a GDF must demonstrate initial compliance by conducting an initial performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1, — Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended Feb. 1, 2001, and Oct. 8, 2003, incorporated by reference, see 40 CFR 63.14.~~

~~(b) The owner or operator of a GDF must, during the initial performance test required under subsection (2)(a), determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 2 of OAR 340-244-0242 and for the static pressure performance requirement in item 1(h) of Table 2 of 340-244-0242.~~

~~(c) The owner or operator of a GDF must comply with the testing requirements specified in section (1).~~

~~(3) Conduct of performance tests. Performance tests must be conducted under such conditions as DEQ or the EPA Administrator specifies to the owner or operator of a GDF based on representative performance, i.e., performance based on normal operating conditions, of the affected source. Upon request by DEQ or the EPA Administrator, the owner or operator of a GDF must make available such records as may be necessary to determine the conditions of performance tests.~~

~~(4) Owners and operators of gasoline cargo tanks subject to the provisions of Table 3 of OAR 340-244-0242 must conduct annual certification testing according to the vapor tightness testing requirements found in 40 CFR 63.11092(f).~~

(1) Effective March ~~1,~~23, 2024, the testing listed in this rule must be conducted and passed for each Stage I vapor balance system, ~~Stage I~~ Enhanced Vapor Recovery system, and Stage II vapor recovery system, as applicable. Initial tests must be completed no later than July 1, 2025. For owners or operators assigned to or issued an Air Contaminant Discharge Permit which requires testing, the testing requirements of both the Air Contaminant Discharge Permit and this rule must be met for the initial and subsequent tests.

(2) All subsequent tests must be conducted at the frequency required by this rule and no later than the end of the calendar month during which the initial test was conducted ~~unless otherwise approved by DEQ~~.

(3) Stage I Vapor Balance and Stage II vapor recovery. The following test requirements apply to Stage I vapor balance and Stage II vapor recovery systems:

(a) An owner or operator of a GDF installing a ~~new~~ complete Stage I vapor balance or Stage II vapor recovery system must conduct and pass a "Pressure test", "PV Vent Valve test", and "Leak Rate of Drop Tube test" under section (6) prior to placing the equipment into gasoline service. If necessary for testing purposes, enough gasoline to conduct the performance test may be loaded into the gasoline storage tank(s) at the GDF;

(b) A~~n existing~~ GDF that has only conducted initial testing upon installation of the Stage I vapor balance system for "Pressure test" and "PV Vent Valve test", as listed under section (6), must conduct and pass a test for both of these and a "Leak Rate of Drop Tube test" before July 1, 2025;

(c)~~(c)~~ A GDF with a Stage I vapor balance system must conduct and pass a "Pressure test" and "PV Vent Valve test" under section (6) at least once every 24 months.

(4) Enhanced Vapor Recovery. The following test requirements apply to Enhanced Vapor Recovery systems:

(a) An owner or operator of a GDF installing an ~~new~~ Enhanced Vapor Recovery system must conduct and pass the following tests, as listed under section (6) prior to placing the equipment into gasoline service. If necessary for testing purposes, enough gasoline to conduct the performance test may be loaded into the gasoline storage tank(s) at the GDF:

(A) "Pressure test";

(B) "PV Vent Valve test";

(C) "Static Torque test" if the EVR system has rotatable adapters; and

(D) "Leak Rate of Drop Tube test".

(b) An owner or operator of a GDF that is equipped with an Enhanced Vapor Recovery system must conduct the tests listed in paragraph (4)(a)(A) through (D) at least once every 24 months.

(5) A failed test completed timely and a passing test completed after the required frequency is not compliant with this rule. Frequency requirements established in section (6) of this rule pertain to test results which demonstrate the vapor control equipment is functioning properly according to the applicable test method.

(6) Compliance tests for gasoline vapor control equipment are as follows:

(a) Stage I vapor balance and Stage I EVR systems must:

(A) Conduct a Pressure test every 24 months. A pressure test is either CARB Vapor Recovery Test Procedure 201.3 (TP-201.3) 'Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities' or Bay Area Air Quality Management District Source Test Procedure ST-30 'Static Pressure Integrity Test — Underground Storage Tanks'.

(B) Conduct a Leak Rate of Drop Tube test every 24 months. A Leak Rate of Drop Tube test is either Test Procedure 201.1C (TP-201.1C) 'Leak Rate of Drop Tube/Drain Valve Assembly' or Test Procedure 201.1D (TP-201.1D) 'Leak Rate of Drop Tube Overfill Prevention Devices and Spill Container Drain Valves' depending on the system configuration.

(C) Conduct a PV Vent Valve test every 24 months. A PV Vent Valve test is either CARB Vapor Recovery Test Procedure 201.1E (TP-201.1E) 'Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves' or CARB Vapor Recovery Test Procedure 201.1E (TP-201.1E) Alternate version (August 5, 2005).

(b) Stage I EVR systems with rotatable adapters must conduct a Static Torque test every 24 months. A static torque test is CARB test procedure 201.1B (TP-201.1B) 'Static Torque of Rotatable Phase I Adaptors'.

~~(7) In lieu of the sections (1) through (6) testing requirements of this rule applicable to Stage I vapor balance or Enhanced Vapor Recovery systems, the owner or operator may request approval of a continuous pressure monitoring system that is installed and maintained in accordance with CARB Vapor Recovery Test Procedures CP-201 and TP-201.7 and the manufacturer's written instructions. Written EPA approval of the alternative pursuant to 40 C.F.R. 63.6(g) is required before the owner or operator may use this section in lieu of sections (1) through (6).~~

(7~~8~~) Each owner or operator of a GDF choosing to use a Stage I vapor balance system other than that described in this division, must comply with the procedures specified in the provisions of 40 C.F.R. 63.6(g) before placing the alternative system into gasoline service.

(a) The owner or operator must retain documentation of EPA's approval of the alternative for as long as the alternative system is in use at the site; and

(b) The owner or operator must comply with all conditions and stipulations included with the alternative approval from EPA.

(89) Conduct of performance tests. All performance tests must be conducted under conditions based on representative performance, i.e., performance based on normal operating conditions, of the affected source. Upon request by DEQ, the owner or operator of a GDF must make available such records as may be necessary to determine the conditions of performance tests and representative performance.

(910) Owners and operators of gasoline cargo tanks subject to the provisions of- OAR 340-244-0248(3) must conduct annual certification testing according to the vapor tightness testing requirements found in 40 C.F.R. 63.11092(f). EPA Method 27 as in effect on July 1, 2023 is hereby incorporated by reference. 40 C.F.R. part 60 Appendix A-8.

(101) Owners or operators of a gasoline storage tank that has a drop tube replaced not in association with the installation of a Stage I Vapor Balance system or Enhanced Vapor Recovery system must conduct and pass a 'Pressure Test' as described in section (6) within 45 days of the date a ~~new~~ drop tube was installed.

[[NOTE: This rule, excluding section (7), is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]]

[NOTE: View a PDF of referenced documents by clicking on 'Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0248~~48~~50

~~Emission Standards for~~ Gasoline Dispensing Facilities: Recordkeeping ~~Requirements~~

(1) The owner or operator of a GDF must have records available within 24 hours of a request by DEQ to document gasoline throughput.

(2) Each owner or operator of a GDF must keep the following records:

(a) Records of all tests performed under ~~OAR 340-244-0244(1) and (2)~~ this division;

(b) Records related to the operation and maintenance of ~~vapor balance~~ all equipment ~~required under OAR 340-244-0242.~~ in gasoline service, including Stage I vapor balance, Enhanced Vapor Recovery, and Stage II vapor recovery equipment. Any ~~vapor balance~~ equipment in gasoline or vapor service with a ~~component~~ defect, leak, or malfunction must be logged and tracked by the owner or operator~~station personnel~~ using forms provided by DEQ or a reasonable facsimile;

(c) Records of total throughput volume of gasoline, in gallons, for each calendar month;

(d) Records of permanent changes made at the GDF and ~~vapor balance~~ equipment in gasoline service which may affect emissions. This includes, but is not limited to, installing new gasoline storage tanks, installing new vapor control equipment, changing vapor control equipment, or removing gasoline storage tanks or vapor control equipment;

(e) Records of the occurrence and duration of each malfunction of operation, ~~i.e.,~~ including, without limitation, malfunctions of process equipment or the air pollution control and monitoring equipment;

(f) Records of actions taken during periods of malfunction to minimize emissions in accordance with OAR 340-244-~~0239(1)~~0235, including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation;

(g) If subject to OAR 340-244-0245(2), submerged fill requirements, the owner or operator must keep documentation from the equipment manufacturer, a service provider, or other similar documentation which demonstrates that each submerged fill tube is a compliant length. These records must be retained for as long as the owner or operator is subject to any submerged fill requirements under OAR 340-244-0245(2); and

(h) A copy of the written plan for cleanup of spills required by OAR 340-244-0245(1)(c)(A). The plan must be retained for as long as the facility meets the definition of a GDF.

(3) Records required under section (2~~1~~) must be kept for a period of 5 years, unless otherwise specified, and must be made available for inspection and review by DEQ ~~and the EPA Administrator~~ during the course of a site visit.

(4) Each owner or operator of a gasoline cargo tank subject to the ~~management practices in Table 3 of OAR 340-244-0242~~ requirements in OAR 340-244-0248(3) must keep records documenting vapor tightness testing for a period of 5 years. Documentation must include each of the items specified in 40 CFR 63.11094(b)(2)(i) through (viii). ~~Records of vapor tightness testing must be retained as specified in either subsection (3)(a) or (b).~~

(a) Records of vapor tightness testing must include at least the following:

(A) Name of test: ‘Annual Certification Test—Method 27’;

(B) Cargo tank owner's name and address;

(C) Cargo tank identification number;

(D) Test location and date;

(E) Tester name and signature;

(F) Witnessing inspector, if any: Name, signature, and affiliation.

(G) Vapor tightness repair**:** Nature of repair work and when performed in relation to vapor tightness testing; and

(H) Test results: Test pressure, pressure or vacuum change, mm of water, time period of test, number of leaks found with instrument, and leak definition.

(b)~~The owner or operator of a gasoline cargo tank must keep all vapor tightness testing records with the cargo tank.~~ Records of vapor tightness testing must be retained with the cargo tank; or

(c) As an alternative to keeping all records with the cargo tank under (4)(b), the owner or operator of a gasoline cargo tank may ~~comply with the requirements of paragraphs (3)(a)(A) and (B).~~ keep records of only the most recent vapor tightness test with the cargo tank and keep records for the previous 4 years at their office or another central location. Vapor tightness testing records that are kept at a location other than with the cargo tank must be instantly available (e.g., via e-mail or facsimile) to DEQ ~~and the EPA Administrator~~ during the course of a site visit or within ~~a mutually agreeable time frame~~ 48 hours of a request. Such records must be an exact duplicate image of the original paper copy record with certifying signatures.

(5) The owner or operator of a GDF that has an ~~Stage I E~~Enhanced Vapor Recovery system installed must retain records as specified within Table 2 under OAR 340-244-0246 for the specific EVR system, equipment or component. as applicable.

[~~[~~NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.]~~

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 15-2008, f. & cert. ef 12-31-08

OAR 340-244-0250~~1~~
Gasoline Dispensing Facilities: Reporting

~~(1) Each owner or operator of a GDF subject to the management practices in OAR 340-244-0242 must report to DEQ and the EPA Administrator the results of all volumetric efficiency tests required under OAR 340-244-0244(1) and (2). Reports submitted under this rule must be submitted within 180 days of the completion of the performance testing.~~

~~(2) Annual report. Each owner or operator of a GDF that has monthly throughput of 10,000 gallons of gasoline or more must report, by February 15 of each year, the following information, as applicable.~~

~~(a) The total throughput volume of gasoline, in gallons, for each calendar month.~~

~~(b) A summary of changes made at the facility on vapor recovery equipment which may affect emissions.~~

~~(c) List of all major maintenance performed on pollution control devices.~~

~~(d) The number, duration, and a brief description of each type of malfunction which occurred during the previous calendar year and which caused or may have caused any applicable emission limitation to be exceeded.~~

~~(e) A description of actions taken by the owner or operator of a GDF during a malfunction to minimize emissions in accordance with OAR 340-244-0239(1), including actions taken to correct a malfunction.~~

(1) **Test Reports**. Each owner or operator of a GDF subject to the requirement to perform a test under OAR 340-244-0249 must report the results to DEQ within 30 days of the completion of the performance testing.

(2) **Annual reports**. Each owner or operator of a GDF 3, 4 or 5 must report, by February 15 of each year, the following information, as applicable:~~.~~

(a) The total throughput volume of gasoline, in gallons, for each calendar month and the annual total for the previous calendar year;

(b) A summary of changes made at the GDF on any equipment in gasoline or vapor service ~~stage I vapor balance and stage II vapor recovery equipment wh~~which may affect emissions;

(c) List of all major maintenance performed on pollution control devices and equipment in gasoline service;

(d) The number, duration, and a brief description of each ~~type of~~ malfunction which occurred during the previous calendar year and which caused or may have caused any applicable emission limitation to be exceeded;

(e) A description of actions taken by the owner or operator of a GDF during a malfunction to minimize emissions in accordance with OAR 340-244-0235, including actions taken to correct thea malfunction.

(3) **Initial Notifications**. Each owner or operator of a GDF 2, 3, 4, or 5 with monthly throughput of 10,000 gallons of gasoline or more must:

(a) Submit an Initial Notification that the owner or operator is subject to the Gasoline Dispensing Facilities NESHAP by May 9, 2008, or within 90 120 days of becoming a GDF 2, 3, 4, or 5reaching 10,000 gallons of monthly gasoline throughput. The Initial Notification must contain the information specified in paragraphs (3)(a)(A) through (D). The notification must be submitted to EPA's Region 10 Office and DEQ as specified in 40 C.F.R. 63.13.

(A) The name and mailing address of the owner and the operator;

(B) The address, i.e., physical location, of the GDF;

(C) The volume of gasoline loaded into all storage tanks or the volume of gasoline dispensed from all storage tanks during the previous twelve months; and

(D) A statement that the notification is being submitted in response to the Gasoline Dispensing Facilities NESHAP and identifying the requirements in OAR 340-244-0245 that apply to the owner or operator of a GDF.

(b) The owner or operator of an existing GDF who has already submitted an Initial Notification does not need to submit an additional Initial Notification to comply with this section (3) unless requested to do so, in writing, by DEQ.

(4) **Notification of Compliance Status**. The owner or operator of a GDF must submit a Notification of Compliance Status to EPA's Region 10 Office and DEQ, as specified in 40 C.F.R. 63.13, within 60 days of the GDF becoming an affected source subject to the requirements of this division.

(a) The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy, must indicate whether the source has complied with the requirements of this division, and must indicate whether the GDF's monthly throughput is calculated based on the volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks.

(b) If the owner or operator of a 's GDF is in compliance with the requirements of this division at the time the Initial Notification required under section (3) of this rule is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under section (3).

(c) The owner or operator of a~~n existing~~ GDF who has already submitted a Notification of Compliance Status does not need to submit an additional Notification of Compliance Status to comply with this section (4) unless requested to do so, in writing, by DEQ.

(5) **Notification of Performance Test**. The owner or operator of a GDF must submit a Notification of Performance Test, as specified in 40 C.F.R. 63.9(e), at least 60 days prior to initiating testing required by OAR 340-244-0249.

(6) The owner or operator of a GDF must submit additional notifications specified in 40 C.F.R. 63.9, as applicable.

(7) The owner or operator of a GDF that has removed, capped, or otherwise decommissioned a Stage II vapor recovery system under OAR 340-244-0247(10) must notify DEQ in writing. The notification must comply with the following:

(a) The notification is due to DEQ 30 days after completing the decommissioning;

(b) The notification must include:

(A) Pressure test results report;

(B) The physical address of the GDF;

(C) The date the work started and the date the decommissioning was completed;

(D) The name of the company or service provider entity that conducted the decommissioning work, including a contact phone number and email address;

(E) The Enhanced Vapor Recovery system equipment checklist under OAR 340-244-0246(8) documenting the EVR components that were installed;

(F) For each requirement under OAR 340-244-0247(10)(a) through (n), the date the specific step was completed and a signature or initials of the individual who certified the step was completed; and

(G) A certification statement by a responsible official of truth, accuracy, and completeness. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

[~~[~~NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 only for affected sources in the Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas and all of Clackamas, Multnomah, and Washington counties.]~~.]~~

[NOTE: This rule was renumbered from 340-244-0250 and combined with language from 340-244-0246 ‘notifications’.]

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.050
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08

340-244-0252
Emission Standards for Gasoline Dispensing Facilities: General Provision Applicability

Table 3 to 40 CFR part 63 subpart CCCCCC shows which parts of the General Provisions apply to the owner or operator.

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 15-2008, f. & cert. ef 12-31-08

Division 242
RULES APPLICABLE TO THE PORTLAND AREA

(repeal all gasoline dispensing rules from division 242 and incorporate into division 244)

~~**340-242-0500**~~
~~Gasoline Vapors from Gasoline Transfer and Dispensing Operations: Purpose and Applicability~~

~~(1) Gasoline vapors contribute to the formation of ozone. OAR 340-242-0500 through 340-242-0520 require the control of gasoline vapors from gasoline dispensing operations.~~

~~(2) OAR 340-242-0500 through 340-242-0520 apply to gasoline dispensing facilities located within Clackamas, Multnomah and Washington Counties.~~

~~NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.~~

~~**Statutory/Other Authority:** ORS 468.020 & 468A.025~~
~~**Statutes/Other Implemented:** ORS 468A.025~~
~~**History:**~~
~~DEQ 7-2015, f. & cert. ef. 4-16-15~~
~~DEQ 1-2011, f. & cert. ef. 2-24-11~~

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0400
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 16-1996, f. & cert. ef. 8-14-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91)

340-242-0510

Gasoline Vapors from Gasoline Transfer and Dispensing Operations: Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply in 340-242-0500 through 340-242-0520. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies in 340-242-0500 through 340-242-0520.

(1) "Equivalent control" means the use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by DEQ, such that the aggregate emissions of gasoline vapor from the facility do not exceed those from the application of defined reasonably available control technology.

(2) "Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds per square inch (28 kilopascals) or higher, used as a motor fuel.

(3) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(4) "Annual throughput" means the amount of gasoline transferred into or dispensed from a gasoline dispensing facility during 12 consecutive months.

(5) "Stage I vapor collection system" means a system where gasoline vapors are forced from a tank into a vapor-tight holding system or vapor control system through direct displacement by the gasoline being loaded.

(6) "Stage II vapor collection system" means a system where at least 90 percent, by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

(7) "Substantially modified" means a modification of an existing gasoline-dispensing facility which involves the addition of one or more new stationary gasoline storage tanks or the repair, replacement or reconditioning of an existing tank.

(8) "Vapor control systems" means a system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams per 1,000 liters) of petroleum liquid loaded.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025

~~**History:**~~
~~DEQ 7-2015, f. & cert. ef. 4-16-15~~
~~DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0401~~
~~DEQ 20-1998, f. & cert. ef. 10-12-98~~
~~DEQ 16-1996, f. & cert. ef. 8-14-96~~
~~DEQ 4-1993, f. & cert. ef. 3-10-93~~
~~DEQ 7-1991, f. & cert. ef. 5-7-91 (and corrected 6-7-91)~~

Attachment C: Public Comments and DEQ Response

Comment 1

Adoption of Stage 2 statewide would be extremely expensive and unnecessary. When I started working with DEQ AQ it was always told to us that once the cars were new enough Stage 2 would go away and the state would use Stage 1 as opposed to tri-county that has both. The availability and costs of equipment and testing is difficult enough with the tri county. I also believe that most sites don't have the capacity to manage compliance and you will see more non compliant sites. I believe with newer vehicles coming into the state and onboard systems we should be moving towards eliminating stage 2 and having stage 1 statewide.

Commenter: Chris Huiard – Space Age Fuel

Response:

Under the proposed rules, owners and operators with Stage 2 vapor recovery systems must determine whether their equipment is compatible or incompatible with motor vehicle Onboard Refueling Vapor Recovery (ORVR) systems by 7/1/2024. Then, by 12/31/2025 all incompatible Stage 2 systems must have the vapor lines capped, removed, or otherwise decommissioned and install enhanced Stage I vapor balance equipment known as Stage I EVR, or change to a Stage 2 system that is compatible with ORVR.

An owner or operator of a Stage II system that is compatible with ORVR can keep their Stage 2 system in place or remove it and install Stage I EVR.

DEQ did not make changes to the proposed rules in response to this comment.

Comment 2

[The following is written comment submitted via email]

Regarding: OAR 340-200, -216, -242, and -244 of its administrative rules to address changes made to Gasoline Dispensing Facility vapor control technology and associated requirements.

Public Comment: In a document titled,

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Part 52 [EPA–R02–OAR–2022–0169; FRL–9610–02– R2]

Approval and Promulgation of Implementation Plans; New York; Gasoline Dispensing, Stage I, Stage II and Transport Vehicles

"Stage Two Vapor Collection System Enforcement Discretion Directive" concerning the state of New York. This document underscores the inefficiencies and diminishing benefits associated with Stage II Vapor recovery. We quote from 2006, "Monitoring in New York and other states shows that Stage II VOC capture is inefficient due to an increasing number of all ORVR equipped vehicles replacing older vehicles without ORVR and the amount of displaced gasoline vapors available for capture by Stage II will continually diminish."

ORVR-Onboard Refueling Vapor Recovery systems, since 1998 have been integrally installed in an automobile's fuel system to capture fuel vapors that are dispelled from the gasoline tank before they can reach the nozzle of a gas pump. This process involves capturing these fuel vapors within carbon canisters, which are subsequently reintroduced into the engine's combustion cycle when the vehicle is operational. The progressive adoption and integration of ORVR controls within vehicles, alongside their phased implementation, have fundamentally rendered the necessity for Stage II Vapor recovery systems superfluous.

This paradigm shift is conspicuously evident in the authoritative approvals rendered by the Environmental Protection Agency (EPA) in various states, including but not limited to Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, and New York. These approvals resonate as a testament to the overarching shift towards ORVR-equipped vehicles and the subsequent decline in the applicability of Stage II Vapor Recovery systems.

The document further elaborates that fugitive emissions are expected to decrease with the growing number of ORVR-equipped vehicles in New York. Based on extensive modeling and widespread ORVR use, New York's ORVR over market use rate surpassed 80% in 2011 and exceeded 85% by 2013. Notably, these figures are a decade old, implying that the present state of ORVR use is even more substantial and further benefit immeasurable unless the document is further updated.

Considering this data, the document concludes that decommissioning Stage II Vapor Recovery in New York will yield comparable emissions reductions. Therefore, the need for Stage II requirements or comparable measures is obviated.

These insights from New York as approved by the EPA in November of 2022, provide a thought-provoking perspective on the efficacy and practicality of Stage II Vapor Recovery Systems, particularly in regions with widespread ORVR adoption. I believe such information is essential as we navigate these considerations in Oregon, not to mention the associated costs of a local station, implementing this equipment, the loss of business, while the construction is being done, and the overarching and lack of availability of skilled technicians to install the systems. DEQ should, at the very minimum, contemplate utilizing the proceeds derived from the Clean Fuels Program as a potential funding source should this rulemaking proceed from its current stage of costs that can exceed $200,000 per site.

In summary regarding health implications of perceived harmful VOC emissions and gasoline fueling at the nozzle level, my ultimate objective is to cultivate a profoundly informed and inclusive dialogue grounded in comprehensive empirical evidence and diverse perspectives. With this objective in mind, I humbly implore you to grant the Rule Making Committee access to any pertinent data held by DEQ regarding VOC emissions stemming from both conventional nozzles and vehicles outfitted with ORVR. This data, which seemingly forms the foundation for DEQ's consideration of Stage II Vapor Recovery in the State of Oregon, will undoubtedly contribute to our exploration of this matter in a deeply meaningful and comprehensive manner. Such insights would immensely enrich our ongoing discussions.

BACKGROUND: The US EPA created rules in 2012 that waives all vapor recovery at retail gas stations. Stage 2 Vapor Recovery can be described simply as a vacuum device at the retail gas pump that pulls the gasoline vapor released at filling your vehicle back to the fuel bulk tank. These can be seen at a retail gas station as a bulky hose.

For over 30 years the vehicles sold in the US have their own vapor recovery system installed. If you fill up in another state, you will see a rubber cup that seals the fill on your vehicle ensuring that the vapor released is deposited in the fuel tank of the vehicle buying fuel. Since 2012 the Oregon DEQ has verbally said Oregon would be following this. For a short period of years in fact the Oregon DEQ told us to stop submitting our annual vapor recovery reports.

REASON FOR LEGISLATION:
Oregon's DEQ wants to ramp up requirements for Vapor Recovery. These costs will be in the six figures per site. This is in a market where gasoline engines have been outlawed, rural counties have fuel desserts between some cities, and volumes are dictated to rapidly decline with the presumed EV adoption curves expected by Oregon's Clean Fuels Program. Loading costs on small retailers will harm Oregonians as more stations close ahead of the EV infrastructure being available to meet needs.

The DEQ has issued a Notice of Proposed Rulemaking for Stage 2 vapor recovery. This document has costs estimates that insult the intelligence of anyone reading through it. For instance:

- Claiming the cost of DEQ labor for these costs $18 an hour,
- No consideration of installation labor in the cost of upgrades,
- Use of National data for the size and class of businesses operating gas stations rather than very different Oregon data fact,
- No consideration of the US EPA standard as an alternate rule,
- The rules will require upgrades for any tank bigger than 500 gallons which will impact smaller municipalities as they often have small gas refueling infrastructure.

As a concerned Oregon resident, we ask that this public comment be submitted. We ask that The State of Oregon begin the process of unwinding all DEQ Rules regarding Stage II Vapor Recovery in all areas of the state. The system is simply not needed and is a waste of tax dollars. Instead of making rule changes to further implement such systems, we should be using resources to eliminate Stage II Vapor Recovery in Oregon.

See attached for the rest of the country's stance on stage 2 vapor. Most states have REQUIRED it to be removed due to the conflict with on board vapor recovery on most autos today. It would be absurd for Oregon to mandate this at this point.
https://www.oregon.gov/deq/rulemaking/Pages/GDF2022.aspx
[Attachment: "Stage 2 VR Guidance by State" (Excel)]

[The following is verbal comment submitted at the public hearing by Jason Cole – Unknown affiliation]

I work for a fuel supplier and represent a pretty good amount of independent station owners in the state, several dozen. I'm thinking of which ones that are our customers that own these gas stations, most of them being minority owned- how many of them could sustain their station and their business if they're faced with an upgrade like this.

We've had a hard time getting a hard cost on this. One of the reasons is there are not enough contractors for one thing; number 2, the contractors that do this work would like to see this happen because it would be probably 10 years' worth of guaranteed work for them. So, there's lack of competition which drives up the cost. Our vendors of petroleum equipment and partners would love to see this happen as well because it's guaranteed sales of a lot of equipment that would have to be bought.

It kind of opens up a pandora's box; you say, 'we have to upgrade this stage 2 vapor, well if you do that and you're busting concrete, you might as well replace the piping, if you do that you might as well replace the under dispenser containment'. It's just a pandora's box of things that almost have to be upgraded as well beyond their natural life cycle.

We do estimate this is from $150-250k to do this, so I laugh at the previous comment that 'we have to upgrade our offices'; well, those aren't $250k bills. This is real money and it's enough of a burden to literally put these guys out of business. Once again, most of them minority owned. I would like to read what each other state is doing for this and how they're handling it, I'll try to make this as quick as possible but it's about 45 out of 50 states that say 'hey ORVR counteracts with VR at a station- they work against each other'. Meaning- what you're trying to accomplish may even be worse for the environment than letting the automotive onboard equipment do its work.

I applaud Detroit and our automotive makers in America, and all over the world for that matter, for what they've been able to accomplish with this vapor recovery technology, because I do believe it has been very effective.

Alamba, no stage 2 vapor recovery required. Alaska = no stage 2 vapor recovery required. Arizona, decommissioning of S2 equipment to occur from 10/1/16 through 9/30/2018. So, what they're saying is not only we don't want you to do it, but we're requiring you to get rid of it because it's counteractive. Arkansas does not require. Colorado does not require. Connecticut, decommissioning required to be completed by 7/1/2015. Delaware no longer required. Georgia, decommissioning started 5/1/2014; must be completed by 4/30/2016. Once again, they're not saying we don't want you to do it anymore, they're saying get it out- it's bad for the environment. Hawaii does not require. Idaho does not require. Indiana, as of April 2013 new station no longer required to install. Iowa does not require. Kansas does not require. Kentucky does not require. Maine, effective 1/1/2012 gas station facilities with stage 2 must have discontinued stage 2 equipment. Maryland, decommissioning in 2014. Michigan, in April 2011 the state waived its stage 2 vapor recovery installation requirements. Minnesota does not require. Mississippi does not require. Montana does not require. Nebraska does not require. New Hampshire, all stations must be decommissioned by 12/22/2015.New York, stage 2 decommissioning when proper removal procedures are followed. North Carolina, state repealed its stage 2 vapor requirements. North Dakota does

not require. Ohio, 1/17/2014, Ohio requires statewide decommissioning of vapor 2 recovery to be completed by 1/17/2014- that might be a typo. I'll have to check on Ohio. Oklahoma does not require. I could go on and on.

I think it's interesting that many states are saying get it out, it's bad, we don't want it. It's counterproductive to what we're trying to achieve here. I would urge the state of Oregon to take a look at the EPA and what they're recommending, and what the rest of the states did. I don't necessarily think that Oregon DEQ is smarter than most of the rest of the country on this particular topic. I for one, love the environment, I want to protect it, I want to do everything we can to protect it for my kids, your kids, everyone that's in the state, but this is really just a terrible idea that we're proposing here. Thank you.

Commenters of written comment: Jason Cole – Unknown Affiliation (with attachment); Jared Staub – Ed Staub & Sons Petroleum, Inc. (with attachment); Nick Staub – Ed Staub & Sons Petroleum, Inc. (without attachment)

Response:

DEQ agrees that ORVR has become more prevalent over the past 20 years, and this has reduced the overall effectiveness of Stage 2 vapor recovery systems. EPA's August 7, 2012 memorandum titled 'Guidance on Removing Stage II Gasoline Refueling Vapor Recovery Programs from State Implementation Plans' is one of the reasons DEQ initiated this rulemaking.

Oregon's vehicle fleet has historically lagged behind the national average in regard to its age, resulting in a lower percent of ORVR-equipped vehicles on the road compared to most other states. DEQ now has information from the Oregon Department of Motor Vehicles which shows that Oregon's fleet has replaced enough older vehicles with newer ones (ORVR-equipped) such that emissions will no longer be reduced by utilizing Stage II vapor recovery that is incompatible with motor vehicle ORVR. Current Stage II vapor recovery systems in Oregon generally come in two variations: 'vacuum assist' and 'balance'. Vacuum assist systems are generally incompatible with ORVR while 'balance' systems are generally compatible.

- DEQ's fiscal impact statement did not quantify the cost of DEQ labor but rather used the $18/hour figure to estimate the additional fiscal impact an owner or operator may experience by having the station or facility staff review the rules, updated permits, and current or proposed operations to determine any requisite changes.
- DEQ's fiscal impact estimates included labor in the cost of some items and separately accounted for it in other work items.
- The RAC, FAC, or other public comments have not provided more detailed information regarding the size and class of businesses operating gas stations in Oregon by which DEQ can make reasonable updates to the existing information on public notice for the Environmental Quality Commission.
- Mirroring the current federal regulations applicable to gasoline dispensing facilities would result in an increase in VOC and HAP emissions across the state and would likely, on its own, not be approvable by the EPA as a modification to the State Implementation Plan.

- The rules specifically separate out requirements for new versus existing sites and do not require any tank to be retrofitted from single point to dual point; some in-ground work is required to change to Stage I EVR from Stage I vapor balance, but it is not any tank bigger than 500 gallons; it is sites with 600,000+ gallons per year. Further, existing sites with 600,000 – 999,999 gallons per year are only required to install Stage I EVR when a new gasoline tank is added, or an existing tank is replaced.

Please also see DEQ's response to Comment 1.
DEQ did not make changes to the proposed rules in response to this comment.

Comment 3

[The following is written comment submitted via email]
Regarding: OAR 340-200, -216, -242, and -244 of its administrative rules to address changes made to Gasoline Dispensing Facility vapor control technology and associated requirements.
Public Comment: In a document titled,

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Part 52 [EPA–R02–OAR–2022–0169; FRL–9610–02–R2]

Approval and Promulgation of Implementation Plans; New York; Gasoline Dispensing, Stage I, Stage II and Transport Vehicles
"Stage Two Vapor Collection System Enforcement Discretion Directive" concerning the state of New York. This document underscores the inefficiencies and diminishing benefits associated with Stage II Vapor recovery. We quote from 2006, "Monitoring in New York and other states shows that Stage II VOC capture is inefficient due to an increasing number of all ORVR equipped vehicles replacing older vehicles without ORVR and the amount of displaced gasoline vapors available for capture by Stage II will continually diminish."

ORVR-Onboard Refueling Vapor Recovery systems, since 1998 have been integrally installed in an automobile's fuel system to capture fuel vapors that are dispelled from the gasoline tank before they can reach the nozzle of a gas pump. This process involves capturing these fuel vapors within carbon canisters, which are subsequently reintroduced into the engine's combustion cycle when the vehicle is operational. The progressive adoption and integration of ORVR controls within vehicles, alongside their phased implementation, have fundamentally rendered the necessity for Stage II Vapor recovery systems superfluous.

This paradigm shift is conspicuously evident in the authoritative approvals rendered by the Environmental Protection Agency (EPA) in various states, including but not limited to Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, and New York. These approvals resonate as a testament to the overarching shift towards ORVR-equipped vehicles and the subsequent decline in the applicability of Stage II Vapor Recovery systems.

The document further elaborates that fugitive emissions are expected to decrease with the growing number of ORVR-equipped vehicles in New York. Based on extensive modeling

and widespread ORVR use, New York's ORVR over market use rate surpassed 80% in 2011 and exceeded 85% by 2013. Notably, these figures are a decade old, implying that the present state of ORVR use is even more substantial and further benefit immeasurable unless the document is further updated.

Considering this data, the document concludes that decommissioning Stage II Vapor Recovery in New York will yield comparable emissions reductions. Therefore, the need for Stage II requirements or comparable measures is obviated.

These insights from New York as approved by the EPA in November of 2022, provide a thought-provoking perspective on the efficacy and practicality of Stage II Vapor Recovery Systems, particularly in regions with widespread ORVR adoption. I believe such information is essential as we navigate these considerations in Oregon, not to mention the associated costs of a local station, implementing this equipment, the loss of business, while the construction is being done, and the overarching and lack of availability of skilled technicians to install the systems. DEQ should, at the very minimum, contemplate utilizing the proceeds derived from the Clean Fuels Program as a potential funding source should this rulemaking proceed from its current stage of costs that can exceed $200,000 per site.

In summary regarding health implications of perceived harmful VOC emissions and gasoline fueling at the nozzle level, my ultimate objective is to cultivate a profoundly informed and inclusive dialogue grounded in comprehensive empirical evidence and diverse perspectives. With this objective in mind, I humbly implore you to grant the Rule Making Committee access to any pertinent data held by DEQ regarding VOC emissions stemming from both conventional nozzles and vehicles outfitted with ORVR. This data, which seemingly forms the foundation for DEQ's consideration of Stage II Vapor Recovery in the State of Oregon, will undoubtedly contribute to our exploration of this matter in a deeply meaningful and comprehensive manner. Such insights would immensely enrich our ongoing discussions.

BACKGROUND: The US EPA created rules in 2012 that waives all vapor recovery at retail gas stations. Stage 2 Vapor Recovery can be described simply as a vacuum device at the retail gas pump that pulls the gasoline vapor released at filling your vehicle back to the fuel bulk tank. These can be seen at a retail gas station as a bulky hose.

For over 30 years the vehicles sold in the US have their own vapor recovery system installed. If you fill up in another state, you will see a rubber cup that seals the fill on your vehicle ensuring that the vapor released is deposited in the fuel tank of the vehicle buying fuel.

Since 2012 the Oregon DEQ has verbally said Oregon would be following this. For a short period of years in fact the Oregon DEQ told us to stop submitting our annual vapor recovery reports.

REASON FOR LEGISLATION:
Oregon’s DEQ wants to ramp up requirements for Vapor Recovery. These costs will be in the six figures per site. This is in a market where gasoline engines have been outlawed, rural

counties have fuel desserts between some cities, and volumes are dictated to rapidly decline with the presumed EV adoption curves expected by Oregon's Clean Fuels Program. Loading costs on small retailers will harm Oregonians as more stations close ahead of the EV infrastructure being available to meet needs.

The DEQ has issued a Notice of Proposed Rulemaking for Stage 2 vapor recovery. This document has costs estimates that insult the intelligence of anyone reading through it. For instance:

- Claiming the cost of DEQ labor for these costs $18 an hour,
- No consideration of installation labor in the cost of upgrades,
- Use of National data for the size and class of businesses operating gas stations rather than very different Oregon data fact,
- No consideration of the US EPA standard as an alternate rule,
- The rules will require upgrades for any tank bigger than 500 gallons which will impact smaller municipalities as they often have small gas refueling infrastructure.

As a concerned US Citizen concerned and fighting for the US Energy Freedom and Choice, I ask that this public comment be submitted. We ask that The State of Oregon immediately begin the process of unwinding all further DEQ Rules regarding Stage II Vapor Recovery in all areas of the state. The system is simply not needed and is a waste of tax dollars. Instead of making rule changes to further implement such systems, we should be using resources to eliminate Stage II Vapor Recovery in Oregon.

[The following is verbal comment submitted at the public hearing]

I sent in a letter, and I'd like to talk about that. Specifically, about what the EPA has told numerous states, including NY, in 2006. Here we are in 2024 and we're talking about Stage 2 vapor recovery, when the EPA has given states permission to get rid of it because it's not needed. So, I quote, in my letter I sent in to DEQ, "monitoring in NY and other states shows that Stage 2 vapor recovery is inefficient due to increasing numbers of ORVR equipped vehicles replacing other vehicles without ORVR and the amount of displaced gasoline vapors available for capture by Stage 2 will continually diminish." That was in 2006. ORVR since 1998 have been virtually installed in every single vehicle that is put out on the road, and that captures fuel vapors that are dispelled from the tank before they reach the nozzle of the gas pump. And that process involves capturing fuel vapors in carbon canisters which are subsequently reintroduced into the engine's combustion cycle which is normal and operational.

The progressive adoption and integration of these controls on vehicles alongside their phased implementation have fundamentally rendered the necessity of stage 2 vapor recovery superfluous.

So, it's a huge paradigm shift, so I find it very odd and interesting and costly that you're proposing this in the areas that you've mentioned and on the maps. We really just need to eliminate all of it, there is no issue with ozone. You're making the problem seem much larger than it is, so I'd like to question some of the data you're coming up with.

If you could provide the sources of your data that ozone is from that source and that that's the cause, when all the other states including what the EPA has said could be removed, why aren't you going with the EPA's recommendations and processes to remove stage 2?
In fact, I think California, they just don't want to admit they've made mistake. And they've made all of these implementation rules in California, and it's been very costly to maintain this equipment for gas stations in California and it's just simply not needed. But they don't want to admit they made a mistake in this area. So, in California every station has to do this. It's very costly and it drives up the price of gasoline. The person and people and people groups that have to deal with it are really the end consumer that buys fuel; fuel in California is almost $5/gallon. If this gets implemented in Oregon it's going to do nothing but drive up the price of fuel. It's going to cost these gas stations in excess of $200k; the $18/hr. figure that was thrown out there is completely inaccurate.

We would like to see DEQ completely reverse course of this entire issue and not even implement it at all; and go with the EPA and what they recommend. I sent in a spreadsheet that showed what was happening in each state; you'll find that most states are getting rid of Stage 2 vapor recovery.

Commenter: Bascomb Grecian – Ed Staub & Sons Petroleum, Inc.

Response:

Please see DEQ's response to Comment #2.

Comment 4

[The following is written comment submitted via email]

Subject: Comments and recommendations for permanent rules changes to Chapter 340 of the Oregon Administrative Rules related to vapor controls at gasoline dispensing facilities.

On behalf of Beyond Toxics, a state-wide environmental justice nonprofit, and thousands of our supporters across the state, including the mid-Willamette Valley, I express our support permanent rules changes to Chapter 340 of the Oregon Administrative Rules related to vapor controls at gasoline dispensing facilities. Beyond Toxics has been an active public interest participant in policy decisions related to air quality and public health and well-being for over twenty years. We are also deeply invested in policies that promote environmental justice principles. Beyond Toxics was and still is actively involved in efforts to develop and implement air toxics rules in collaboration with the Oregon Department of Environmental Quality (DEQ), including serving on the GDF Dispensing Rules Advisory Committee and many years on the Cleaner Air Oregon Rules Advisory Committee since its inception.

General Comments

Beyond Toxics supports the proposed rulemaking for the primary reason that adopting these rules will result in benefits to the public from an overall reduction in air pollutant emissions from gasoline dispensing facilities across the state, resulting in a reduced social, environmental and health cost of exposure to gasoline vapors.

We also support adopting the same regulations as the CARB regulations that have been or are being adopted by Oregon's neighboring states. These regulations are best aligned with Oregon's goal of achieving improved public and environmental health.

While it is anticipated that gasoline use will decrease over time, there is still a need to implement these rules. As vehicle gasoline dispensing reduces, it will likely be the larger gas dispensing facilities that remain in business, and these will continue to contribute to the air quality concerns that this rulemaking is addressing. Furthermore, gas dispensing at airports is not going to abate anytime soon, so expanding the rules to include emissions reductions at all airports should be a top priority for the DEQ. We highly recommend that the DEQ continue forward to implement these rules in addition to the new rules to reduce the number of fossil fuel operated vehicles on Oregon's roads.

In addition to expressing our support, we submit the following recommendations to improve the proposed rule language and beneficial outcomes.

Fiscal and Economic Impact
Beyond Toxics urges the DEQ to include employee health and job longevity as a beneficial fiscal and economic impact of adopting the proposed rules. As currently written, the explanation focuses almost exclusively on the impacts for business owners. However, business owners are also impacted by an employee's ability to work to the best of their ability and not incur expense and hardship due to absenteeism related to sickness. Although difficult to quantify, there certainly are economic benefits from ensuring that employee have reduced exposures to harmful emissions from gas dispensing operations, including ground level ozone, benzene and other air toxics.

Implementation at Airports
Airports in all cities, not just those in former or current AQMA areas, need to be included in regulations pertaining to reducing emissions at GDFs, including emissions generated at airports. Pertaining to gas dispensing at airports, we urge the DEQ to adopt criteria based on volume of daily airplane traffic and throughput of airplane fuel dispensed and refrain from limiting regulation implementation to locations previously known to have ozone concerns.

As currently written, the proposed rules promote outdated ozone data and air quality maintenance standards as the primary criteria for adopting the proposed rules at airports. This approach omits the high probability of increasing airport traffic and airport expansions, resulting in ever-increasing amounts of airplane fuel dispensed at airports. The concern is that airports that are not currently listed in the rule will not be subject to the improved emission reduction standards for GDFs in a timely way.

Air pollutant emissions from GDFs include volatile organic compounds, can contribute to ozone – or smog – formation, including toxic air contaminants such as benzene. The need to reduce ozone-forming pollutants is more important than ever as we here in Oregon experience more extended and intense wildfire seasons and hotter temperatures, possibly lengthy heat domes. A study published earlier this year in Environmental Science and

Technology has shown that wildfire smoke can react with urban fossil fuel pollution to create ozone as smoke plumes blow over cities. This suggests that all larger urban areas, and not just cities with previous ozone issues, may see unanticipated increases in ozone levels in the near future. In the case of wildfire smoke, VOCs that have not already chemically reacted have another chance to mix with the abundant levels of pollutants from fossil fuel dispensing and combustion in urban areas to create ozone. It may be helpful to share a quote Steven Brown, an atmospheric chemist at the National Oceanic and Atmospheric Administration:

"We face a very different challenge now that we have this response to climate change. These new emissions that are coming from wildfires present a challenge to people who want to see continued improvement in air quality."[16]

Climate change is impacting air quality in many ways that exacerbate unhealthy air conditions and additional cases of asthma and other diseases. The DEQ must be proactive. While we understand that the following recommendation cannot be accommodated as part of the currently proposed rule change, we urge the DEQ to immediately introduce rulemaking for airport GDFs that will apply to all airports throughout the state and will be based on throughputs and not based on previous ozone data.

Pertaining to 340-244-0234 (8)
We support this addition to the rule, which keeps emissions reductions requirements in place if or when a GDF throughout dips below the category originally assigned to it.

Pertaining to 340-244-0234 (9)
As part of installing equipment changes as described in 340-244-0234 (9) we recommend the rule specific days and months for the purpose of clarity. For example, the rule could be written: "the owner or operator must have completed the equipment changes no later than 365 days, or the last day of the 12th month after the affected source becomes subject to the additional or changed requirement."

Pertaining to 340-244-0243
Regarding GDFs 5s, we understand the rationale for setting the date of December 31, 2029 for compliance, which leaves outdated equipment in place and in use for another six years. To achieve the goal of the rulemaking, namely public health protections, we urge the DEQ to set a compliance date of no more than four years, or December 31, 2027. As stated previously, air quality continues to deteriorate as a result of climate change, heat and wildfire smoke. The DEQ does our state a disfavor by delaying equipment improvements and implementation for 6 years.

Pertaining to 340-244-0250 and 340-244-0251

[16] "Wildfire Smoke Reacts with City Pollution, Creating New Toxic Air Hazard," Scientific American online publication. 6/9/2023 (Accessed at https://www.scientificamerican.com/article/wildfire-smoke-reactswith-city-pollution-creating-new-toxic-airhazard/#:~:text=Scientists%20have%20long%20known%20that,it%20blocks%20harmful%20ultraviolet%20rays.)

For the purpose of data compliance and access, we suggest that the DEQ require that all recordkeeping be digital and uploaded to an agency website and updated for accuracy on an annual basis using forms developed by the DEQ. This is a far more proactive and efficient way to track compliance than the current language (which only requires the operator/owner to produce written records within 24 hours of a request by the DEQ, or to have records available on site in the course of a scheduled inspection). Requiring digital compliance documentation would save the DEQ staff time, which reduces agency staffing costs. The language currently proposed is an old-fashioned and outdated method of recordkeeping. Electronic record keeping should apply to all the various requirements in this OAR section.

Thank you for giving due consideration to these comments.

[The following is verbal comment submitted at the public hearing]
Support for proposed rulemaking- adopting will result in benefits to the public and overall reduction in air pollutant emissions from GDFs across the state. Benefit because it reduces social, environmental, and health cost from exposure to gasoline vapors. While it is anticipated that gas use will reduce over time as we change our modes of transportation, this will take a long time to complete. There is still a need to implement these rules.
As gasoline needs are reduced, it will likely be the larger facilities that remain in business and will contribute to the AQ concerns that these rules are attempting to address.
Regarding the concern about cost of equipment changes and the cost being passed on to business owners, this is the standard. From experience, when construction was required at our office, we had to pay for the building improvements that will benefit the landowner and building owner and not the tenant.

A few suggestions to improve these rules:
Regarding implementation at airports, airports in all cities, not just those in AQMAs, need to be included in the regulations pertaining to reducing emissions at GDFs. Pertaining to these GDFs activities at airports, we urge the DEQ to adopt criteria based on volume of throughput of airplane fuel dispensed and refrain from limiting regulation implementation to locations previously known for ozone concerns. This is because, as currently written, the proposed rules promote outdated ozone data and maintenance standards as the primary criteria for adopting the proposed rules at airports. This approach omits the high probability of increased airport traffic and expansions, resulting in ever-increasing amounts of airplane fuel dispensed at airports.

The concern is that airports that are not currently listed in the rule will not be subject to the improved emissions reduction standards for GDFs in a timely way. Air pollutant emissions contain VOCs, which contribute to ozone formation- also, TACs such as benzene. The need to reduce these ozone forming pollutants is more important than ever as we here in Oregon experience more extended and intense wildfire seasons and hotter temperatures, and possibly lengthy heat domes.

For example, in a study published earlier this year in ‘Environmental Science and Technology’, scientists showed that wildfire smoke can react with urban fossil fuel pollution to create ozone as smoke plumes flow over cities. So, we might see unanticipated increases

in ozone levels in the near future from wildfire smoke, which causes the VOCs that have not already chemically reacted to mix with the abundant levels of pollution from smoke and fossil fuel dispensing to create ozone in urban areas.

So, we hope DEQ will be proactive, and while we understand that our recommendation can't be accommodated as part of the current rule change, we urge DEQ to immediately introduce rulemaking for airport GDFs that will apply to all airports throughout the state and will be based on throughput and not previous ozone data.

The second point we want to make: for the purpose of data compliance and access, we highly recommend that the DEQ require all recordkeeping be digital and uploaded to an agency website and updated for accuracy on an annual basis. This is a far more efficient way to track compliance than the current language in the rule, which only requires the owner or operator to produce written records within 24 hours of a request by DEQ or to have records available on site in the course of a scheduled inspection. Requiring digital compliance documentation would save DEQ staff a lot of time, which reduces agency staffing costs.

In the fiscal analysis and economic impact, we urge DEQ to follow their mandates for EJ and to include the benefits, the fiscal and economic benefits, of healthier working conditions for workers at GDFs. Business owners will be impacted by an employee's ability to work to the best of their ability and will benefit from not incurring expenses and hardships due to absenteeism due to sickness; so, we think this is a worthy thing to include in the analysis. Thank you for the opportunity.

Commenter: Lisa Arkin – Beyond Toxics

Response:

DEQ thanks the commenter for their support.

Regarding the comment that suggests expanding applicability to include additional airports: The applicable language in 40 C.F.R. part 63 subpart CCCCCC (Gasoline Dispensing Facility NESHAP regulation) excludes loading of aviation gas into storage tanks at airports; DEQ previously included some airport gasoline dispensing activities within the current rules and did not propose to expand that applicability in the proposed rules. However, as the commenter suggests, DEQ will consider subsequent rulemaking options that may address the recommendation. DEQ did not make changes to the proposed rules in response to this comment.

Regarding the comment to include employee health and job longevity as a factor in the fiscal and economic impact: DEQ agrees with the commenter's point that a reduction in VOC and other emissions from gasoline dispensing facilities has a net positive impact on employee health, which in turn almost certainly is a benefit to facility owners and operators. DEQ revised the fiscal and economic statement in the staff report that will be submitted to the EQC. DEQ did not make changes to the proposed rules in response to this comment.

Regarding the comment that suggests including specific days/months for the purposes of clarity in OAR 340-244-0234(9): The proposed rules establish the requirement to complete equipment changes within 24 months after 'triggering' the equipment change. This language

currently aligns with how an affected source would determine their annual throughput. DEQ does not believe that establishing more specific day or month language in the rule would increase clarity. DEQ did not make changes to the proposed rules in response to this comment.

Regarding the comment suggesting a date of 12/31/2027 for GDF 5 facilities to install Stage 1 EVR: DEQ has heard from public comments, the Rules Advisory Committee, and service providers to gasoline dispensing facilities that there may not be enough qualified technicians to complete the required equipment changes and testing under the proposed rules. With a 2029 date, facilities have sufficient time to plan for these equipment changes and schedule with service providers. Further, many service providers through mid-2025 will likely have full schedules by assisting the GDF4 and 5 facilities in the Portland metro area that have a more immediate deadline regarding their Stage 2 vapor recovery equipment. DEQ did not make changes to the proposed rules in response to this comment.

Regarding the comment suggesting DEQ require all recordkeeping be digital and on DEQ's website, updated annually: DEQ appreciates the commenter's desire for information transparency regarding these facilities. The proposed recordkeeping and reporting requirements applicable to these facilities aligns with past agency practice; facilities are allowed to retain records digitally or hardcopy, whichever way is more appropriate for the business owner or operator. DEQ is in the process of moving permitting, reporting, etc. into Your DEQ Online (YDO), with the air quality program expected to launch in mid-2024. Given that additional information will be readily available by the general public through YDO, DEQ did not make changes to the proposed rules in response to this comment.

Comment 5

The U.S. Environmental Protection Agency appreciates the opportunity to comment on the proposed rulemaking, "Gasoline Dispensing Facility Emissions." Please accept the following comments for your consideration on the Notice of Proposed Rulemaking dated November 30, 2023.

Key Comments

The following comments have potential approvability issues that could impact the EPA's ability to take final approval action on the SIP such that the EPA recommends the air agency address these issues prior to formal submittal:

- The Notice of Proposed Rulemaking contains an amendment to OAR 340-200-0040, which describes the state's procedures for adopting its Clean Air Act Implementation Plan and references all of the state air regulations that have been adopted by the Environmental Quality Commission, whether or not they have yet been submitted for inclusion in the SIP or approved by the EPA. It is unnecessary to incorporate into the SIP a provision addressing state SIP adoption procedures. Please indicate in the cover letter of the SIP submittal to the EPA that OAR 340-200-0040 is not being submitted for approval by the EPA for the reasons mentioned above.
- Please do not include the following rules in the SIP submittal to the EPA: OAR 340-244-0100, OAR 340-244-0200, and 340-244-0210. These rules apply to NESHAPs specifically. The EPA authority to approve rules into the SIP only extends to provisions

related to attainment and maintenance of the NAAQS, and other specific requirements of sections 110 of the Clean Air Act (CAA).

- There are multiple instances throughout the draft rules enclosed in the Notice of Proposed Rulemaking that state the proposed Gas Dispensing Facility (GDF) rules will apply statewide (e.g. OAR 340-244-0234(4)). In the EPA's 2015 action, our approval was limited to sources in "Portland-Vancouver, Medford-Ashland, and Salem-Keizer Area Transportation Study air quality management areas, as well as all of Clackamas, Multnomah, and Washington counties" (80 FR 65655, October 27, 2015). Please clarify in the cover letter of the SIP submission whether DEQ would like to expand SIP approval of the proposed rules to statewide. To the extent that DEQ does not want the SIP-approved GDF rules to apply statewide, we suggest editing the rules to specify.
- The EPA cannot approve provisions into the SIP that provide DEQ with unbounded authority to approve exemptions or variances from otherwise applicable SIP requirements. These "director's discretion" type provisions are inconsistent with the CAA and the policy set forth in the EPA's 2015 SIP call related to regulation of excess emissions during startup, shutdown, and malfunctions. See 80 FR 33840 (June 12, 2015). The following provisions provide DEQ with authority to modify otherwise-applicable SIP requirements and therefore are not appropriate for approval into the SIP:
    - The definition of "equivalent control" at OAR 340-244-0231(6).
    - Case-by-case approval of equipment under OAR 340-244-0246(1), OAR 340-244-0246(3), OAR 340-244-0246(5), OAR 340-244-0247(6), and OAR 340-244-0248(5)(b).
    - Approval of reduced testing frequency under OAR 340-244-0249(2).
    - The alternatives approval process set forth in OAR 340-244-0249(7). In addition, OAR 340-244-0249(8) should specify that any source-specific alternatives approved through the process in 40 CFR 63.6(g) would also need to be submitted for SIP approval.
- Please clarify the extent to which OAR 340-244-0251(2) is a relaxation from the previous rule. The previous rule required reporting if annual throughput was greater than 100,000 gallons annually. In the new rule, reporting would be required for throughput greater than or equal to 120,000 gallons annually. (2) also removes the reporting requirement for high seasonal throughput (greater than 10,000 gallons monthly throughput but less than 120,000 gallons annually). Please clarify the extent to which OAR 340-244-0251(3) is a relaxation of the previous rule. This notification provision previously applied to tanks greater than 250 gallons, which would include facilities classified as GDF 2, whereas the proposed provision only applies to facilities classified as GDF 3, 4, or 5.
- Please clarify the extent to which OAR 340-244-0251(3)(a) is a relaxation of the previous rule. OAR 340-244-0240(3) previously applied to all tanks with capacity greater than 250 gallons whereas the proposed rule applies to tanks reaching a monthly throughput of 10,000 gallons.

General Comments

The below comments outline issues that if resolved would strengthen the formal submission:

- We suggest that clarifying language be added to OAR 340-244-0231 to prevent potential confusion between stage I, enhanced vapor recovery stage I, and stage II in definitions 5, 23 and 24. According to the definition in (5), "Enhanced Vapor Recovery (EVR)" means a complete vapor balance system, which is a Stage I vapor balance system according to the definition in (23). However, the definition in (24) states that a "vapor recovery system" means a Stage II vapor recovery system.
- The terms "Stage I vapor balance system" and "dual-point vapor balance system" are both defined terms. In multiple instances in the proposed rules, these terms are combined into new, undefined terms. "Dual-point vapor balance stage I system" in OAR 340-244-0241(2) is one such example. We recommend using defined terms. For example, "dual-point vapor balance system" could be replaced with the longer but clearer "dual-point vapor balance stage I system."
- It is unclear whether OAR 340-244-0242(4) is a requirement that is in addition to the rest of OAR 340-244-0242 or is an alternative option. We suggest language to clarify (e.g., either "In addition to the requirements above" or "In lieu of the requirements above"). DEQ may have intended for OAR 340-244-0242(4) to be a continuation of OAR 340-244-0242(3), in which case this provision should be labeled "(c)" instead of "(4)."
- OAR 340-244-0242(1) incorporates "All applicable requirements under OAR 340-244-0241." However, OAR 340-244-0241 includes distinct requirements for new and existing GDFs. We suggest editing the cross reference to OAR 340-244-0241 to make clear which set of requirements is being incorporated. This comment also applies to OAR 340-244-0243(1)(a), which incorporates "All applicable requirements under OAR 340-244-0242" without specifying which set of requirements applies.
- OAR 340-244-0243(2)(a) and (b) are already requirements for gasoline storage tanks with 250-gallon capacity or greater under OAR 340-244-0242. We suggest editing for clarity.
- OAR 340-244-0247(2)(b) requires the installation of an "Enhanced Vapor Recovery" system which is a Stage I control. Because the title of rule OAR 340-244-0247 is "Stage II Vapor Recovery System," we recommend clarifying this stage I requirement. For example, renaming the rule or moving OAR 340-244-0247(2)(b).
- OAR 340-244-0247(4) states that the owner or operator of an incompatible stage II vapor recovery system must install a compatible stage II vapor recovery system. However, OAR 340-244-0247(2) states that an ORVR-compatible stage II system may be removed if the requirements in (2) are met. It appears that an incompatible system must meet the requirements in (2), and therefore must install an ORVR-compatible stage II system that can subsequently be removed. Please clarify this provision.
- We recommend specifying a timeframe by which the actions required under OAR 340-244-0247(7)(c) must be completed.

- OAR 340-244-0250(f) requires owners or operators to maintain records of corrective actions taken during malfunctions. It would be helpful if DEQ could clarify in the rule that compliance with OAR 340-244-0235 does not exempt the owner or operator from enforcement for any noncompliance with SIP requirements during the malfunction event.
- OAR 340-244-0251(2) and (3) are inconsistent with OAR 340-244-0238 which requires facilities classified as GDF 2 comply with OAR 340-244-0251. We recommend correcting this inconsistency.

Other Comments
The below comments are not critical for the air agency to address in their formal submission, but may be helpful to note:

- OAR 340-244-0246(2) and (4); OAR 340-244-0248(4) and (5) are missing the word "in." We suggest editing to include it.
- In both the first paragraph of the proposed OAR 340-244-0030 rule and first paragraph of the proposed OAR 340-244-0231 rule, the second sentence is missing "OAR" in front of "340-200-0020." We suggest editing to include it.

Thank you for the opportunity to review the proposed rulemaking.

Commenter: Gina Bonifacino – US EPA; Tess Bloom – US EPA Region 10

Response:

Regarding the comments specifically addressing the State Implementation Plan submittal, DEQ did not make changes to the proposed rules in response to these comments.

Regarding the comment that the proposed rules appear to expand affected SIP areas to the entire state, DEQ has modified the 'Note' text throughout the proposed rules to clarify the geographic areas that are proposed to be included in the SIP. DEQ intends for this edit to the proposed rules to not expand the scope of the SIP approval to any new geographic areas of the state.

Regarding the comment requesting clarification on the extent to which OAR 340-244-0251(2) is a relaxation from the previous rule: DEQ believes there may have been an error in the version of rules sent to EPA for review or another similar error. Current rules require reporting for sources with 10,000 or more gallons per month (calculated based on a year's throughput). DEQ doesn't believe that any facilities would not be subject to the newly worded requirement that were or would have been subject to the current rule. DEQ did not make changes to the proposed rules in response to this comment.
Regarding the comment on 'unbounded authority': DEQ modified the proposed rules in response to this comment as follows:

- The definition of 'equivalent control' under OAR 340-244-0231(6) has been removed.
- Alternative approval within OAR 340-244-0246(1), -0246(3), -0246(5) has been removed.
- The case-by-case approval referenced in OAR 340-244-0248(5)(b) has been removed.

- The alternative test date approval referenced in OAR 340-244-0249(2) has been removed.
- The alternative test method approval in OAR 340-244-0249(7) have been removed.
- The Stage I alternative in OAR 340-244-0249(8) was renumbered to (7) due to changes in response to the previous EPA comment; in the [Note] at the end of the rule, section (7) has also been clearly excluded from inclusion in the SIP.

The reference to DEQ approval within OAR 340-244-0247(6) is not discretionary approval but rather a reference to existing and long-established requirements for owners/operators to submit construction notifications prior installing or modifying air pollution control equipment as described in OAR chapter 340 division 210. The proposed rules were not changed in response to this comment.

Regarding the comment requesting clarification on the possible relaxation of OAR 340-244-0251(2); DEQ believes there may have been an error in the version of rules sent to EPA for review or a misunderstanding. Current rules require reporting for sources with 10,000 or more gallons per month (calculated based on a year's throughput). DEQ doesn't believe that any facilities would not be subject to the newly worded requirement that were, or would have been, subject to the current rule. DEQ did not change the proposed rules in response to this comment.

Regarding the comment requesting clarification on the possible relaxation of OAR 340-244-0251(3) and (3)(a); The current federal requirement for initial notifications applies to facilities with 10,000 gpm; the proposed rules establish the initial notification is required for facilities with 120,000 gpy. DEQ's current rules did include facilities with gasoline storage tanks at or above 250 gallon capacity. In response to this comment DEQ added GDF 2 facilities to the initial notification requirement.

Regarding the comment requesting clarification of the definitions of various GDF control systems: DEQ modified the proposed rules in response to this comment to provide additional clarity regarding the types of control systems by removing the text 'Stage I' in all instances in which the rules were referring to an Enhanced Vapor Recovery system. Stage I means Stage I vapor balance systems only; Enhanced Vapor Recovery means an enhanced version of a Stage I vapor balance system, only referred to in the rules as 'Enhanced Vapor Recovery system'; the definition of 'Vapor Recovery System' referring to a Stage II vapor recovery system has been removed and all references changed to 'Stage II vapor recovery system'.

Regarding the comment on dual-point vapor balance stage I system: The definition of 'dual-point vapor balance system' has been modified to refer to the Stage I system. This definition still closely aligns with the federal definition in 40 C.F.R. part 63 subpart CCCCCC; all subsequent references to 'dual-point stage I vapor balance system' or similar have been changed to 'dual-point vapor balance system' to clearly refer to this definition. In other instances of the proposed rules, the term 'dual-point' is used by itself to require an owner/operator to purchase and install a dual-point tank, as such DEQ has added a separate definition of 'dual-point' that closely reflects the related definition of 'dual-point vapor balance system'.

Regarding the comment on OAR 340-244-0242(4) being additional requirement versus an alternative option: DEQ intended for (3) to apply to facilities that did not have a Stage II vapor recovery system. The proposed rules were modified to clearly establish (3) as applicable to sources without Stage II and (4) as applicable to sources with a Stage II system.

Regarding the comment about OAR 340-244-0241 and references to other rules and applicable requirements: DEQ believes that including the words 'applicable requirements' retains clarity surrounding which referenced requirements apply to new or existing sources. No changes were made in response to this comment.

Regarding the comment about OAR 340-244-0243(2)(a) and (b) being previously listed in -0242: DEQ intended to reiterate several key aspects of the applicable requirements within each GDF 'type' rule to ensure owners and operators would clearly understand the requirements for a new or replaced storage tank.

Regarding the comment about OAR 340-244-0247(2)(b): DEQ believes that changes to the defined terms within OAR 340-244-0231 will help ensure there is minimal confusion regarding the term 'vapor recovery' as it relates to Enhanced Vapor Recovery and Stage II vapor recovery systems. 'Enhanced Vapor Recovery' is a defined term and the requirement in -0247(2)(b) refers back to the EVR rules within -0246. No changes were made in response to this comment.

Regarding the comment about OAR 340-244-0247(4): In section (1)(b) of this rule the owner or operator of an incompatible (with ORVR) Stage II vapor recovery system is provided the option to comply with section (3) or (4). These sections allow the owner or operator to skip the switch to an ORVR-compatible Stage II vapor recovery system and install an EVR system (see OAR 340-244-0247(3)). No changes were made in response to this comment.

Regarding the comment about OAR 340-244-0247(7)(c) and repair timeframe: DEQ added language to clearly explain the timeframes for equipment repair or replacement which closely mirror the timeframes that have been in place for several years applicable to Stage I vapor balance systems and are also included in the proposed rules.

Regarding the comment about OAR 340-244-0251(2) and (3) and inconsistencies with -0238: DEQ disagrees with the commenter. OAR 340-244-0238 requires a GDF 2 to comply with reporting requirements under -0251, which could include test reports and notification of a planned test. While GDF 2 facilities are not required to install vapor control equipment under the proposed rules, if a site had previously installed vapor controls but their throughput classified them as a GDF 2, test requirements under -0249 could still apply. No changes were made in response to this comment.

Regarding the comment about OAR 340-244-0250(2)(f) and malfunctions: DEQ added language under OAR 340-244-0235 to clearly include this concept.

Regarding the comment about missing 'OAR' under OAR 340-244-0030 and -0231: DEQ agrees and has added the text 'OAR' to these sentences.

Comment 6

I would like to submit the following reference material regarding the proposed regulation changes related to Stage II vapor recovery at Gasoline Dispensing Facilities into the public record to be reviewed and considered by the EQC.
1) from Oregon DEQ website
link: https://www.oregon.gov/deq/aq/programs/pages/gasoline-vapor-recovery-stages.aspx#:~:text=Stage%20II%20vapor%20recovery%20equipment,%2C%20Clackamas%20and%20Washington%20counties).

"The Clean Air Act Amendments of 1990 also required automakers nationwide to equip new vehicles with "onboard refueling vapor recovery" systems (ORVR). This vapor recovery method returns gasoline vapors displaced during refueling back into the vehicle fuel system. The EPA adopted regulations implementing this requirement in 1994. As of 2000, all new light-duty gasoline powered vehicles sold must be equipped with ORVR systems. As ORVR equipped vehicles permeate the market, stage II vapor recovery systems may become less necessary because the vehicles themselves will recapture the harmful gasoline vapors."

2) from EPA website
link: https://www3.epa.gov/region1/airquality/gas.html
Vapor Recovery: The Present/Future
Since the early 2000s, new passenger cars, light-duty trucks, and most heavy-duty gasoline powered vehicles have been equipped with onboard refueling vapor recovery (ORVR) systems. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle of a gas pump. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

The phase-in of ORVR controls has essentially eliminated the need for Stage II vapor recovery systems. As such, EPA Region 1 has been working with the New England States as they strive to address State legislation and/or revise State regulations aimed at phasing-out Stage II vapor recovery programs. The table below illustrates the status of the Stage II vapor recovery program in each respective State.

State	Date Stage II No Longer Required, Stations can uninstall	Date by which All Stage II Systems must be Removed	Required by State Legislation	Status of State Regulations addressing Stage II Phase-Out
Connecticut	See CT DEEP Stage II Webpage	See CT DEEP Stage II Webpage	Public Act 13-120 (PDF) (4 pp, 203 K, about PDF)	Currently Revising Regulations

Massachusetts	See MA DEP Stage II Webpage	See MA DEP Stage II Webpage	N/A	Currently Revising Regulations. See MA DEP Stage II webpage
Rhode Island	Dec. 25, 2013	Dec. 22, 2017 *	RIGL 23-23-30 **	APCR No. 11 (PDF) (39 pp, 184 K, about PDF)
Maine	Jan. 1, 2012	Jan. 1, 2013	Public Law, 123rd Legislature, Second Regular Session, Chapter 559 (PDF) (1 pg, 7 K, about PDF)	Chapter 118 (14 pp, 131 K, Word)
New Hampshire	Nov. 17, 2012	Dec. 22, 2015	N/A	Env-Or 500 (PDF) (45 pp, 263 K, about PDF)
Vermont	Jan. 1, 2013	Jan. 1, 2015	Title 10 V.S.A. §583	VT legislation repealed, effective Jan 1, 2013, all rules pertaining to Stage II vapor recovery.

*: Rhode Island allows stations to keep Stage II vapor recovery systems as long as they are modified to not have any incompatibility issues with motor vehicle ORVR systems.
**: RIGL 23-23-30 applies to new and substantially modified stations only between June 14, 2012 and December 25, 2013, the effective date of the amended regulation APCR No. 11.

Commenter: Max Bordal – Unknown Affiliation

Response:

Thank you for your comment. DEQ agrees that ORVR has become more prevalent in the vehicle fleet, and this has resulted in less overall emissions control from Stage 2 vapor recovery systems at gasoline dispensing facilities. The proposed rules establish the beginning of a phase-out of Stage 2 vapor recovery systems.

Comment 7

I would just like to comment that the costs of this proposed change would be excessive to the point of impossible for owners such as myself. Why would Oregon go above and beyond what the EPA requires? We already have some of the highest fuel prices in the nation, and this rule would without question raise those already high costs.

Commenter: Andrew Shirtcliff – Shirtcliff Oil Co.

Response:
DEQ understands that there are fiscal impacts of the proposed rules. However, specific provisions within the proposed rules ensure that most existing facilities subject to the rules are only required to conduct equipment changes when the owner or operator is already adding a new gasoline storage tank or replacing one.
DEQ's rules have established requirements for GDFs beyond the applicable federal requirements at 40 C.F.R. part 63 subpart CCCCCC since approximately 2009.
Without specific references to requirements in the proposed rules, DEQ has no additional information to provide and did not make changes to the proposed rules in response to this comment.

Comment 8

OFA opposes the proposed rules to revise applicable to Gasoline Dispensing Facilities found at Oregon Administrative Rules chapter 340 divisions 242 and 244 (Stage II).
The Oregon Fuels Association (OFA) is the voice of Oregon's locally-owned fuel stations, fuel distributors and heating oil providers. OFA members are at the forefront of environmental stewardship within the industry and continue to make investments toward a cleaner, greener economy. However, with declining fuel sales and increased regulatory burdens, many of our small businesses are struggling. And these small businesses are critically important to providing affordable and accessible fuel for communities across Oregon.

Background
Historically states, including Oregon, have required that gas stations install very expensive Stage II vapor recovery systems. However, since the early 2006, gasoline cars and trucks have come equipped with onboard refueling vapor recovery systems (ORVR) that capture fuel vapors and are combusted in the vehicles engine. As stated by EPA, "[t]he phase-in of ORVR controls has essentially eliminated the need for Stage II vapor recovery systems." As a result, EPA has approved a number of state implementation plans (SIPs) that have removed Stage II requirements without placing new, costly burdens on gas stations. Unfortunately, here, DEQ appears to be taking the appropriate steps in decommissioning the expensive systems it once mandated, but now adding to those costs by establishing new requirements. OFA requests that the DEQ reconsider this rule and take a different, less costly approach.

1. **The proposed rules are unnecessary statewide.**

DEQ argues that these new changes are necessary to comply with EPA's air quality standards as it relates to ozone. Currently, Oregon is in attainment of EPA's ozone air quality standard. Gasoline sales have dramatically declined over the last 5 years, and OFA anticipates that trend will continue due to the proliferation of electric vehicles and DEQ regulations intended to reduce the sale of gasoline (see climate protection program and clean fuels program). Those sales declines will allow the state to stay within its Federal Clean Air Act compliance requirements. As a result, these new expensive regulations are unnecessary.

2. **The proposed rules are extraordinarily expensive for both large and small businesses.**

The proposed rule would create new, expensive, and unnecessary regulations on Oregon's locally owned fuel stations. For example, under the proposed rules an existing gas station

could face costs of between $150,000 and $300,000 based on existing Stage II equipment and/or new replacement requirements. This far exceeds DEQ's shockingly low estimated costs of this regulation. Missing from DEQ's narrow examination of costs to businesses are the expensive construction costs and other equipment replacement costs that will be associated with these new equipment requirements. These high, anticipated and estimated costs from industry and consultants would make many gas stations unprofitable.
Many, if not most, gas stations, regardless of GDF status, are small businesses. As explained above, the proposed rule has a significant adverse effect upon small business and as required by ORS 183.540, the agency must reduce the economic impact of the rule on small business. DEQ has failed to adequately address those costs on small business in this rule.
Rather than proceed with the new regulatory requirements, DEQ should remove all Stage 2 regulations as has been done in states across the United States. This is the only reasonable approach to helping small businesses. But consistent with that approach, DEQ should do that for all sizes of gas stations in Oregon. Again, a growing number of Oregonians vehicles already driven in Oregon are newer than 2006 and already have onboard ORVR systems and gasoline sales continue to decline, in part due to other DEQ regulatory programs. Asking Oregon's small businesses to make expensive upgrades, again, for something that is not necessary is unreasonable. DEQ has already placed extensive burdens on our businesses through various and evolving air emissions programs and this one is completely unnecessary.

3. **Throughput threshold determinations should be modified to account for declining fuel sales.**

OFA agrees that the GDF thresholds are set based on throughput gallons that occur after the adoption of this rule. However, because as stated in this comment letter, gasoline sales continue to decline. Rather than subject a business with new costly regulations going forward that is near, but slightly exceeds a threshold, we request that an exceedance of a threshold in the previous 12-months for two consecutive years hereafter trigger the new requirements.

Conclusion
DEQ has a better, more cost-effective rule option to choose from by simply allowing the removal of once mandated Stage II equipment without costly timelines and equipment replacement requirements. However, it has failed to include that as an alternative or fairly estimated the significant expense of the current approach. OFA requests that the DEQ go back to the drawing board, look at an alternative approach that addresses small businesses, better understands the financial impact of this rule, and revise the rule in a way that follows the lesser burdensome (but still environmentally protective) approaches already approved by EPA in other states.

Commenter: Bascomb Grecian – Oregon Fuels Association; Mike Freese – Oregon Fuels Association

Attachment: "OFA – DEQ Stage II Rule Comments [54]" (PDF)

Response:

Regarding the comment that the proposed rules are unnecessary statewide: ozone control is one part of the equation regarding emissions control from gasoline dispensing facilities that DEQ considered. These sources of air pollution emit VOCs, hazardous air pollutants, and other precursors to ozone formation such as NOx. While the commenter is correct that

technically Oregon is in attainment for ozone, there are several urban areas in Oregon trending very close to the federally established national ambient air quality standard for ozone (please see DEQ's 2022 Air Quality Monitoring Report, pages 41-42). Furthermore, the Environmental Protection Agency announced in August of 2023 that it is currently reviewing the federal ozone standards; DEQ expects that this could result in a lowering of the national ambient air quality standard for ozone, which would mean that several areas in Oregon would be at risk of non-attainment or in non-attainment. In consultation with the Rules Advisory Committee, DEQ elected to remove regional specific applicability criteria and instead establish uniform thresholds across the state; the goal was to simplify the process for determining applicable requirements. Though gasoline sales may be declining, gasoline dispensing facilities will continue to emit VOCs. DEQ's mission is to restore, maintain, and enhance the quality of Oregon's air- this rulemaking helps further the agency's mission, and the agency believes the fiscal and economic impact statement clarify that the proposed rules will be a relatively small impact to most affected sources when a new tank is added, or an existing tank is replaced. DEQ did not make changes in response to this comment.

Regarding the comment that the rules are extraordinarily expensive: The commenter does not explain why they believe DEQ's cost estimates are low or how the commenter's estimates of $150,000 - $300,000 were calculated (e.g., what type of facility, what type of existing equipment, and requirements the facility is subject to under the proposed rules is not clear). Without additional detail to support the commenter's claims, DEQ did not make changes in response to this comment. Stage II vapor recovery will not be required to be installed at any facility that does not currently have it installed; of sites that have Stage II installed, they are able to remove the system and equipment if they have dual point tanks which can accommodate Stage I EVR. DEQ took several steps to reduce the overall impact of the proposed rules on small businesses in coordination with the Rules Advisory Committee.

Regarding the comment requesting that throughput threshold applicability allow facilities to remove previously required equipment based on a drop in throughput: DEQ's current rules establish this concept under OAR 340-244-0234(10): "If the affected source's throughput ever exceeds an applicable throughput threshold, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source throughput later falls below the applicable throughput threshold." DEQ has kept this concept and slightly modified the language in the proposed rules, retaining the underlying requirement. DEQ's intent is for the GDF rules found in Division 244 to be approved by EPA as an alternative to 40 C.F.R. part 63 subpart CCCCCC, the area source National Emission Standard for Hazardous Air Pollutants. NESHAP CCCCCC includes this requirement; therefore, it must be retained for the rules to be approvable as an alternative to the NESHAP. With approval of these rules as an alternative to the NESHAP, affected sources would no longer be required to comply with the federal *and* state rules with notifications and reporting to EPA and Oregon DEQ- instead they would only be required to comply with Oregon's rules in Division 244.

No changes were made to the proposed rules in response to this comment.

Comment 9

Dear DEQ,
This is a significant concern regarding the proposed Stage II Vapor Control regulations within the State of Oregon.
Presently, Stage II Vapor Control rules are applicable only in Washington and Multnomah counties. We understand the importance of environmental standards, yet we question the rationale behind extending these regulations to rural areas where such issues may not be prevalent.

The unique characteristics of rural areas, distinct from urban counterparts, may render the application of identical standards unnecessary. As responsible stakeholders, we advocate for a nuanced approach that considers the specific needs and circumstances of each region.
We propose engaging in constructive dialogue to reassess the regional applicability of Stage II Vapor Control regulations. Aligning these rules with federal standards set by the US Environmental Protection Agency (EPA) remains paramount. However, tailoring the implementation to address the unique environmental conditions of each area ensures a more effective and equitable regulatory framework.

I am eager to contribute to discussions aimed at finding solutions that uphold environmental standards within the legal framework established by federal regulations while addressing regional disparities.

As a concerned Oregon resident, I ask that this public comment be submitted.
Commenter: Lexie Greenbank – Unknown Affiliation; Deep Singh – Unknown Affiliation; Biranna Singh – Unknown Affiliation

Response:
DEQ is not proposing to require Stage II vapor recovery systems in additional areas of the state. DEQ did not make changes in response to this comment.

Comment 10

I am writing to express our concerns regarding the potential consequences of the proposed Stage II Vapor Control regulations within the State of Oregon. I believe it is crucial to highlight the impact these regulations may have on the backlog of qualified gasoline technicians.

Our understanding of the proposed regulations indicates the introduction of a complex set of rules related to Stage II Vapor controls at retail gas stations. While the intent to enhance environmental standards is commendable, we are apprehensive about the potential ramifications of these rules, particularly in comparison to industry practices in most other states.

It has come to our attention that Oregon's Department of Environmental Quality (DEQ) is aiming to implement Stage II Vapor controls that many other states have long since abandoned. The increasing compliance goals, applied universally across rural and metro areas, raise concerns about the practicality of such regulations. Asserting that the ozone

levels in rural and metro areas are equivalent oversimplifies the complexities of regional environmental factors.

As advocates for a balanced regulatory approach, we believe it is essential to consider regional variations when setting compliance goals. Imposing identical standards across diverse geographical areas may lead to unintended consequences, such as an unnecessary burden on local gas stations and, in turn, a potential backlog of qualified gasoline technicians.

In light of these concerns, we propose a collaborative effort to reassess the implementation of Stage II Vapor Control regulations. We are eager to engage in discussions with your team to explore alternative solutions that uphold environmental standards without jeopardizing the efficiency of the certification process for gasoline technicians.

We appreciate your attention to this matter and look forward to the opportunity for constructive dialogue. I am ready to contribute insights and work collaboratively to find balanced solutions that align with both environmental goals and the practicalities of the industry.
Thank you for your consideration.

Commenter: Morgan Kindlespire – Unknown Affiliation; Dale C. Hurst – Lil' Pantry Markets, LLC, Oregon Ice LLC, RCRV Oregon LLC, Recoil Aerospace LLC, HRP Properties LLC

Response:

DEQ is not proposing to implement Stage II vapor recovery requirements, this rulemaking is designed to begin the phase-out of Stage II vapor recovery systems in the state of Oregon. Some facilities that currently have Stage II vapor recovery systems may need to switch to another type of Stage II system, but this is dependent on the equipment that is currently installed at the facility.

Regarding the comment that the rules may result in a backlog of qualified service technicians, DEQ agrees with the commenter. Additional research since the public notice was initially posted leads DEQ to believe that the current proposed rules may result in noncompliance by affected facilities due to lack of available service providers which is outside the control of an owner or operator. DEQ modified the proposed rules in response to this comment; GDF 4 facilities that have Stage II vapor recovery systems incompatible with motor vehicle ORVR are proposed to comply with a December 31, 2025 date instead of December 31, 2024.

Comment 11

Dear DEQ,
I am writing to bring to your attention a matter of significant concern regarding the proposed Stage II Vapor Control regulations within the State of Oregon. It is crucial to highlight the legal framework that governs such regulations at the federal level.
The Supremacy Clause of the US Constitution establishes federal law as the supreme law of the land. It explicitly states, "This Constitution, and the Laws of the United States which

shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."
This constitutional principle ensures that no state may legally establish rules more stringent than any federal rule. Deviating from these standards not only raises legal concerns but also undermines the uniformity and efficiency of regulatory compliance across state lines.
In light of these legal considerations, it is imperative to ensure that any proposed regulations, including Stage II Vapor Control rules, align with federal standards set by the US Environmental Protection Agency (EPA). We, as responsible stakeholders, advocate for a collaborative approach that adheres to federal guidelines while addressing local environmental concerns.
Oregonians are eager to contribute to discussions aimed at finding solutions that uphold environmental standards within the legal framework established by federal regulations. We appreciate your attention to this matter and look forward to the opportunity for meaningful dialogue.
Thank you for your consideration.

Commenter: Amarveer Singh – Unknown Affiliation; Karam Singh – Unknown Affiliation

Response:

Thank you for your comment. 42 U.S.C. § 7416 (Section 116 of the Clean Air Act) explicitly authorizes states to adopt regulations that are more stringent than federal CAA requirements. DEQ did not make changes in response to this comment.

Comment 12

Dear DEQ,
I am writing to bring to your attention a matter of significant concern regarding the proposed Stage II Vapor Control regulations within the State of Oregon. It is crucial to highlight the legal framework that governs such regulations at the federal level.
The Supremacy Clause of the US Constitution establishes federal law as the supreme law of the land. It explicitly states, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."
This constitutional principle ensures that no state may legally establish rules more stringent than any federal rule. Deviating from these standards not only raises legal concerns but also undermines the uniformity and efficiency of regulatory compliance across state lines.
In light of these legal considerations, it is imperative to ensure that any proposed regulations, including Stage II Vapor Control rules, align with federal standards set by the US Environmental Protection Agency (EPA). We, as responsible stakeholders, advocate for a collaborative approach that adheres to federal guidelines while addressing local environmental concerns.
Oregonians are eager to contribute to discussions aimed at finding solutions that uphold environmental standards within the legal framework established by federal regulations. We

appreciate your attention to this matter and look forward to the opportunity for meaningful dialogue.
Thank you for your consideration.
As a mom and pop operation, one thing this isn't California, so stop trying to turn us into the stupid state. Another thing is you just shuved self service down our throat and elder have a hard time with the weight of them stupid nozzles and what about the handicapped. I am totally against you trying to put this law into the state of Oregon.

Commenter: Clay D Ver Bryck Sr. – C & J Super Service

Response:

42 U.S.C. § 7416 (Section 116 of the Clean Air Act) explicitly authorizes states to adopt regulations that are more stringent than federal CAA requirements. DEQ did not make changes in response to this comment.

Comment 13

These EPA comments are submitted on the proposed rulemaking, "Gasoline Dispensing Facility Emissions" due by January 5, 2024 by 4 p.m.

EPA reviewed ODEQ's proposed rule to determine its equivalency to the Federal rule at 40 CFR Part 63 subpart CCCCCC, *National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.*

Based on this equivalency analysis consistent with 40 CFR Part 63.93(b), EPA offers the following comments.

1. Per OAR 340-244-0231(1) and (12), the definition of "Annual Throughput" differs from the definition of "Monthly throughput". The monthly throughput definition is equivalent to the Federal definition and is used to determine applicability under the Federal rule whereas the annual throughput definition is used to determine applicability under the State's rule. The monthly throughput definition calculates gasoline throughput based on the current day and the "previous 364 days, and then dividing that sum by 12". However, the annual throughput definition is based on "a consecutive month period". ODEQ should determine based on these differences in the language such as the use of the word "previous" if that would make any of it's applicable rule requirements less stringent than the Federal rule such as the applicability thresholds under 40 CFR 63.11111.
2. Per OAR 340-244-0231(3), the definition of "Dual point vapor balance system" differs from the corresponding Federal definition where the term "gasoline connections" is used instead of the term "gasoline vapors" used in the State's definition. ODEQ should evaluate whether this difference in language is inconsistent with the Federal rule.
3. Per OAR 340-244-0231(7) and (13), the definitions of "Existing" and "New" is different from how a new and existing sources are defined under the Federal rule at 40 CFR 63.11112. This difference may allow compliance timeframes that are less stringent than the Federal rule. ODEQ should assure that the compliance timeframes

with all requirements under the State's GDF rule are consistent with the Federal GDF rule.

4. Per OAR 340-244-0231(18) and (23), the definitions of "Stage I vapor balance system (Stage I)" of "Vapor Balance System" does not specify a "closed" system which is inconsistent with corresponding definition under the Federal rule.
5. Per OAR 340-244-0234(11), a new or reconstructed GDF or new or replaced storage tank that has ever had a monthly throughput of 100,000 gallons must comply with the requirements of OAR 340-244-0248(1). However, this requirement does not specify a compliance timeframe consistent with the Federal rule at 40 CFR 63.11113.
6. OAR 340-244-0237 and -0238 do not appear to specify compliance timeframes consistent with the Federal rule at 40 CFR 63.11113.
7. OAR 340-244-0241(1), (2), and (3), do not appear to specify compliance timeframes consistent with the Federal rule at 40 CFR 63.11113.
8. OAR 340-244-0242(1), (2), (3) and (4) do not appear to specify compliance timeframes consistent with the Federal rule at 40 CFR 63.11113.
9. OAR 340-244-0243(1), (2), (3), and (4) do not appear to specify compliance timeframes consistent with the Federal rule at 40 CFR at 40 CFR 63.11113.
10. OAR 340-244-0243(4) does not specify whether this requirement is only applicable to a GDF 5 or to an existing GDF of a certain volume gasoline throughput.
11. OAR 340-244-0248(2) does not appear to include existing GDFs or storage tanks meeting the 100,000 gallon per month threshold consistent with the Federal rule. Also, this requirement does not appear to include compliance timeframes consistent with 40 CFR 63.11113.
12. OAR 340-244-0249 appears to establish compliance dates that may be inconsistent with the Federal rule. Also ODEQ should assure that the specified testing methods are consistent with and as stringent as the federal rule.
13. ODEQ's GDF rule allows in certain instances for ODEQ to approve alternatives. ODEQ should demonstrate that these approvals do not contravene or are inconsistent with 40 CFR 63.11131(b) and (c).

Per 340-244-0252, ODEQ incorporates by reference Table 3 of 40 CFR Part 63 Subpart CCCCCC. However, 340-244-0030 references the CFR as of July 1, 2020. Table 3 was amended in November 19, 2020. ODEQ should update this reference to Table 3 in its State rule to include this amendment.

Commenter: Bryan Holtrop – US EPA Region 10

Response:

1. Regarding the comment about annual throughput vs. monthly throughput: DEQ agrees that there was room for ambiguity as well as distinct differences between the 40 C.F.R. part 63 subpart CCCCCC and OAR language that could cause confusion among owners and operators. DEQ has modified the definition of annual throughput to mirror the federal definition of monthly but exclude the reference to 'dividing by 12'. All references to monthly throughput in the proposed rules have been revised to be annual.
2. Regarding the comment about the definition of 'dual point vapor balance system' in the proposed rules and the definition in 40 C.F.R. part 63 subpart CCCCCC: DEQ's

intent is for this definition to align with the federal regulation as closely as possible. DEQ modified the proposed rules in response to this comment to match the NESHAP definition to the extent possible.

3. Regarding the comment about DEQ's definition of existing and new: DEQ revised the definition of new and existing to more closely reflect the definitions found in 40 C.F.R. part 63 subpart CCCCCC. Additional revisions were made throughout the rules to appropriately reflect DEQ's proposed more stringent standards and the current requirements in the NESHAP for new and existing affected sources.
4. Regarding the definition of 'Stage I Vapor Balance System' and 'Vapor Balance System' in the proposed rules and the 40 C.F.R. part 63 subpart CCCCCC definitions: DEQ's intent is for this definition to align with the federal regulation as closely as possible. DEQ modified the proposed rules in response to this comment to align with the NESHAP definition.
5. Regarding the comment about OAR 340-244-0234(11): As written, the requirement to comply with -0248(1) for a Stage I vapor balance system would apply to an affected source immediately. As the various dates in the NESHAP have all passed, only newly constructed sources would require clarification about effective dates. However, newly constructed sources are clearly required to install Stage I vapor balance systems upon startup or shortly after reaching an applicable throughput threshold (120,000 gallons per year).
6. Regarding the comment about -0237 and -0238 (GDF 1 and 2) not specifying compliance timeframes consistent with the NESHAP: As written, the requirements to comply with the work practices, submerged fill, and recordkeeping apply immediately to a GDF. These requirements are in place via current rule for existing (in operation as of the date of the rulemaking) sources and will be effective immediately for new sources.
7. *Regarding the comment about OAR 340-244-0241(1), (2), and (3) (GDF3) not specifying compliance timeframes consistent with the NESHAP: see response to #6, above.*
8. Regarding the similar comment for GDF 4 OAR 340-244-0242 (1-4), see response to #6, above.
9. Regarding the similar comment for GDF 5 OAR 340-244-0243 (1-4), see response to #6, above.
10. Regarding the requirements at 340-244-0243(4), the proposed language states 'subject to this rule'. The 'rule' is 340-244-0243, which establishes applicability to GDF 5 facilities, but DEQ added '5' after 'GDF' in response to this comment to further clarify the applicability.
11. Regarding the comment that OAR 340-244-0248(2) does not include existing GDFs or have a compliance timeframe that aligns with the NESHAP: DEQ believes the current language which states "…or any new or replaced storage tank(s) at a GDF that has ever had annual throughput of 1,000,000 gallons of gasoline or more…" is equivalent to the text of 40 C.F.R. part 63 subpart CCCCCC Table 1 #2.

12. Regarding the comment that testing dates may not align with NESHAP CCCCCC: DEQ believes that testing requirements under OAR 340-244-0249(3) applicable to a Stage I vapor balance system are more stringent than the NESHAP, with PD/PV testing required every two years. Currently issued and assigned ACDPs require PD/PV testing every three years at facilities with 100,000 gallons per month or more gasoline throughput. The proposed rule language clarifies that existing ACDP test requirements ***and*** these proposed rule requirements both apply. Thus, existing sources would not conduct testing any less frequently than currently required. Regarding the test methods: DEQ has elected to refer to slightly updated test methods, as used by the California Air Resources Board, in the proposed rules. DEQ is currently in discussions with EPA staff on this issue.
13. Regarding the comment about approval of alternatives: DEQ has modified the proposed rules in response to other EPA comments about alternatives being approved by DEQ. After these revisions, the only alternative to a Stage I vapor balance system allowed by the rules requires EPA approval consistent with 40 C.F.R. 63.6(g) under OAR 340-244-0249(7).

Regarding the comment about Table 3 general provisions. It appears that the substantive change in the NESHAP from the November 19, 2020 rulemaking is related to the initial notification being submitted as of the effective date 'or within 120 days of becoming subject to the NESHAP'. DEQ has modified the first sentence of the initial notification requirements under OAR 340-244-0251(3) to: "Submit an Initial Notification that the owner or operator is subject to the Gasoline Dispensing Facilities NESHAP by May 9, 2008, or within 120 days of becoming a GDF 2, 3, 4, or 5." Including this change more closely aligns with the current federal requirement and the current Oregon DEQ rules within OAR chapter 340 division 244.

Comment 14

Oregon can do better than this rule and the process it followed. There are several factual assertions from this rule writing process which are incorrect.
First, at Page 10 of the Proposed Rule Making there is a assumption of labor costs for fuel dispensing businesses to conform to the rule. It is that our labor cost is $18 an hour. This is insulting. Even at minimum wage the fully loaded cost of an entry level employee exceeds that cost.
The lowest level of responsibility would be an experienced Gas Station Manager who understands the regulations as well as the systems. The same source the DEQ used for Zip Recruiter shows this position to be at $25 an hour in the Portland, Oregon area. With other baked in costs to the employer due to Oregon's host of requirements this would probably approach $28 or more an hour. Though many in our industry pay far more than that for local gas station management. If a station is independently owned and operated the cost of labor for a small gas station operation should be placed higher.
Second, on page 23 of the Proposed Rule Making there is a Cost of Compliance statement made conforming with the requirements of ORS 183.336. This calculation uses national data for gas station to determine if this impacts small business or not. The DEQ used national data throwing in the huge operators of the Midwest and Southeast US. Even using that data the calculation barely crests the 50 employee mark. This is factually wrong.

In Oregon (and the DEQ visits 100% of our sites seeing how our industry works) the local gas stations are typically a subordinate tenant business or an owner operator with a supply agreement. These local gas stations though they may have a national brand or local chain brand are actually small businesses far below the 50 person head count standard. The DEQ knows every gas station and operator. The local tenants and owner operators pay for the replacement and upkeep of these vapor recovery parts. Oregon's gas station industry is one dominated by small business well below the ORS 414.025, 50 person headcount standard. This rule will impact Small Business disproportionately.
Third, on page 24 there is a link to the "Fiscal_Equipment_Costs_PN.xlsx" which was inaccessible from the website and had to be requested directly. This file shows a host of upgrade costs. These costs are extremely low compared to the real cost of any project. In Oregon in particular just landscaping, ADA, earthquake, and a host of other potential improvements will be triggered by a Vapor Recovery project. The cost of concrete estimated to is extremely low compared to reality. This should be changed to match real expectations.
Fourth, on page 30 listing "What alternatives did the DEQ consider if any?" they leave off the US EPA standards being followed by a vast majority of the US at an extremely much lower cost. The industry at every point has requested this be considered and compared and it was ignored. It definitely was considered but no mention of that exists in this rule making. Also in the alternative to the US EPA standard for Vapor Recovery there is far less equipment involved and a much simpler system.
The statement on page 30 states "Based on existing compliance testing requirements, DEQ is confident that the proposed rules will result in less equipment failures and malfunctions, improved equipment maintenance, and reduced VOC emissions." This is not shown to be the case given that the EPA standard would be far less equipment and therefore far less failure, release, and expense as well as probably the same VOC emission result.
Beyond these factual statements within the Notice of Proposed Rule Making, there are other realities under the DEQ's prevue that have not been acknowledged.
First Oregon has a future Internal Combustion Engine ban approaching. Oregon also has a Clean Fuels Program and Climate Protection Program. All of this will contribute to collapsing gasoline volumes reducing the VOC contribution of gas stations. Why is this not considered?
Second, Oregon's Clean Fuels Program and Climate Protection Program will also hugely incentivize and require the growth of E85 ethanol and Renewable Gasoline as a fuel. Where does that fit in Vapor Recovery rules given that reality as well?
Third, with expectation that Electric Vehicles will dominate consumer adoption there are going to be other point sources for Ozone. According to DEQ staff verbally, the basis for this path is Ozone numbers increasing in Oregon. Point source from expanding natural gas and propane use may have more to contribute with Ozone than declining gasoline dispensing will.

Commenter: Mark Fitz – Star Oilco

Response:

Regarding the comment about the cost of labor: While DEQ can't revise the economic and fiscal impact statement that was in the public notice, DEQ will update the information presented to the EQC in response to this comment to reflect the commenter's estimate of $28/hr.

Regarding the comment about small businesses: DEQ's determination regarding small businesses is based on the legal entity which has been issued or assigned the Air Contaminant Discharge Permit, not the station's 'brand'. For example, a gasoline dispensing facility branded as a 'Shell' station was not considered as part of the larger 'Shell' corporation for small business determination purposes. DEQ reviewed the legal entities that have been issued the air permits to determine which entities own or operate multiple locations and are likely to exceed the 50-employee threshold across their multiple facilities.

Regarding the comment about costs estimates: The Fiscal Advisory Committee was presented with the cost information that was used within the fiscal and economic estimates. DEQ has not been presented with more detailed information regarding additional expenses that may be incurred. Of the ones the commenter lists, it seems unlikely that changes to hanging hardware on a dispenser (for changing or removing Stage II vapor recovery equipment) or minimal concrete breaking around underground storage tank bungs (for the installation of a Stage I EVR system) would establish additional improvement requirements in these areas.

The current EPA requirements found in 40 C.F.R. part 63 subpart CCCCCC establishes requirements for a Stage I Vapor Balance system at 100,000 gallons per month (1,200,000 gallons in a 12-month period). Under the current rules, these exact systems are required using variable applicability based on location, tank size, and throughput (currently statewide required at 480,000 gallons per year). DEQ's proposed rules establish one throughput threshold where this equipment is required and provides existing facilities without this system time to comply, only requiring the Stage I vapor balance system equipment when a new tank is being added or an existing tank is being replaced.

DEQ did consider the alternative of aligning the proposed rules with the current federal requirements under NESHAP CCCCCC for gasoline dispensing facilities. However, because current Oregon rules are more stringent than these federal requirements, a rule proposal which would result in an increase in VOC emissions could risk our attainment with the NAAQS and increase risks to frontline communities due to increased emissions of HAPS.

Regarding the comment on testing requirements: There is no clear suggested change to the proposed rules. Further, a Stage I EVR system, as proposed, does not necessarily have additional equipment which may fail and result in more VOC emissions compared to a Stage I Vapor Balance system. Stage I EVR systems result in VOC emissions reductions compared to the federally and current state requirements of a Stage I Vapor Balance system.

Regarding the comments about other things: DEQ did not specifically model a decline in gasoline sales as a part of this specific rulemaking, but the agency did account for the state's clean vehicle sales targets. DEQ assessed, based on throughput of large and small stations, impacts to both large and small gasoline dispensing facilities. This is why the proposed rules only require existing small facilities (below 1,000,000 gallons dispensed per year) to enhance or add to their existing pollution control equipment when a storage tank is being added or replaced at the site.

DEQ did not modify the proposed rules in response to this comment.

Comment 15

As a citizen of Oregon, I am writing to express a pressing concern regarding the proposed Stage II Vapor Control regulations within the State of Oregon.

The intention to enhance environmental standards is commendable; however, we must bring to your attention the potential cost prohibitive nature of implementing these regulations. Several factors contribute to the apprehensions within our state, including the rising cost of equipment, a shortage of qualified technical labor, and a notable absence of state financial assistance.

The escalating costs associated with acquiring and installing the necessary equipment to comply with Stage II Vapor Control regulations pose a significant financial burden on retail gas stations. This burden is further exacerbated by a shortage of qualified technical labor, which can drive up labor costs and potentially create delays in the implementation process.

Of particular concern is the absence of any form of state financial assistance to aid businesses in navigating these challenges. Despite the State of Oregon collecting billions of dollars through the Clean Fuels Program from consumers, there appears to be a lack of direct financial support for retail gas stations grappling with the impending costs associated with compliance.

We believe that a fair and balanced regulatory approach should include measures to support businesses in meeting environmental standards. Therefore, we advocate for a collaborative effort to explore avenues for utilizing funds generated by the Clean Fuels Program to assist retail gas stations in complying with the new rules.

We propose engaging in constructive dialogue to address these economic challenges and find viable solutions that uphold environmental standards without placing an undue financial burden on businesses.

Commenter: Kristine Hartman – Unknown affiliation; Unidentified Commenter – Unknown affiliation

Response:

Please see DEQ's response to comment #10.
DEQ's current air quality permitting program does not have the statutory authority to provide direct financial support to affected facilities. DEQ did not modify the proposed rules in response to this comment.

Comment 16

Hello, DEQ
I am here to express my deep concerns regarding the potential fiscal and economic impact of the proposed rule changes, specifically GDF 3, GDF 4, and GDF 5, on gasoline dispensing facilities within the State of Oregon. Please address the potential consequences these changes may have on the affected facilities.

The proposed rules, particularly those affecting facilities with 120,000, 600,000, and 1,000,000 gallons or more of annual gasoline throughput (GDF 3, GDF 4, GDF 5, respectively), raise significant concerns about their economic implications. If adopted, these changes have the potential to cause severe economic impacts on the approximately 1,169 gasoline dispensing facilities, including private businesses and some government and public entities, that currently hold permits for gasoline dispensing activities.

Furthermore, it is crucial to note that the impact of these rule changes may extend beyond the specified facilities, affecting various other operations with gasoline storage tanks and dispensers that dispense retail fuel to the public. The proposed rules may lead to exorbitant new fees and modifications to the existing fee structure, which can significantly burden businesses operating in this sector.

One particular concern is that the fiscal or economic impact is likely to be felt more acutely in the future as the majority of these stations are minority owned. As gasoline volumes at the local level decline, these stations, which currently fall under the proposed guidelines, may never experience the stated sales volumes again. This could result in facilities incurring a majority of the fiscal or economic impact without commensurate benefits.

In considering the implications of these proposed rule changes, it is important to reflect on the principles of social justice. Dr. Martin Luther King Jr.'s call for equality and civil rights, as expressed in his "I Have a Dream" speech, remains a guiding force. In alignment with this vision, economist Dr. Thomas Sowell emphasizes equal opportunity over equal outcomes. It is crucial to reject unfounded claims that advocating for clean, reliable, and affordable energy, such as fossil fuels, is inherently "racist." This unjust accusation contradicts Dr. King's vision of a fair and inclusive society.

Fossil fuels, used responsibly and with advancements in technology, promote human flourishing for people of all races in our state. They do not discriminate and are not racist. Let us remember Dr. King's message of equality, reject baseless claims, and appreciate the positive impact of responsible energy sources like fossil fuels in Oregon.

I desire to contribute to discussions aimed at finding solutions that mitigate adverse economic impacts on gasoline dispensing facilities. We appreciate your attention to this matter and look forward to the opportunity for meaningful dialogue.
Thank you for your consideration.
Sincerely,
As a concerned Oregon resident, we ask that this public comment be submitted.

Commenter: Mark S. – Unknown affiliation

Response:

Thank you for your comment. No changes to the proposed rules were suggested. DEQ did not modify the proposed rules in response to this comment.

Comment 17

Hello,
I think these rule revisions are the smart way to go. If DEQ's mission is to protect human health and the environment, then this update needs to be made.
In my position with the Cleanup Program, we mange many projects cleaning up fuel releases from Gasoline Dispensing Facilities. One of our main challenges is that the outdoor air is often more contaminated than the polluted subsurface. This limits our ability to require adequate remediation and ensure protection of the health and safety of people that work at and visit these facilities.
I think this rulemaking will significantly help make Oregon a cleaner and healthier place to live and visit.
Commenter: Margaret L. Oscilia, P.E. – Oregon DEQ

Response

Thank you for your comment. No changes to the proposed rules were suggested. DEQ did not modify the proposed rules in response to this comment.

Comment 18

I think that anything that adds to the cost of gas stations or delivery of gas should not be passed at this time.
Inflation is eating everyone alive and more and more regulations increases these costs more.
I understand health issues but it is not as if these vapors are breathed in 24/7 Just when fueling maybe once per week and you don't have to stand T the car when fueling..just to connect and unconnected.
Commenter**: Christine Hutchins – Unknown Affiliation**

Response

Thank you for your comment. No changes were suggested to the proposed rules. DEQ did not make changes in response to this comment.

Comment 19

The chart titled "Vulnerable Population Score" includes 34 Counties. There are 36 counties in Oregon. Why are Lane and Wheeler counties not listed. Are there not vulnerable people in those counties? Think carefully about the cost impacts you are imposing. We are in a time of outrageous inflation. You are imposing harm on the most vulnerable people, which you say you are trying to help. Sharpen your pencil. I like having someone pump my gas….They have a job and I do not smell like gasoline for the rest of the day. I much damage is spilled gasoline on human skin going to cause? Not everyone is efficient at pumping their own gas if they have never done it. I like being served by someone who is competent to do that job! I don't have that gift.
Commenter**: Elaine G. Schacher – Oregon Department of Administrative Services**

Response
Thank you for your comment. DEQ omitted Lane county and Wheeler county. Lane county was left off the list inadvertently and has been included in the final staff report for the EQC. Wheeler county was left off the list as there are no permitted GDFs in the county; DEQ did, however, add the county on the list for clarity in the final staff report to the EQC. No changes were made to the proposed rules in response to this comment.

Comment 20

How much money will these new dispensing rules cost the filling stations for the upgrade, which flows through to consumers.

I'd like to see more attention being paid to these kids with tricked up diesels, "rolling coal" or whatever they call it.

If you really want to do some good, maybe you could look into gas cans. Specifically, the 5 gallon cans with no vent hole and no place for your second hand to go to help with dispensing the fuel from the can. Sixty-nine years old and I can't pour out of the new cans without spilling fuel, but I have no trouble with the older style.

Commenter: Steve Daiker – Unknown Affiliation

Response
Thank you for your comment. No changes were suggested to the proposed rules. DEQ did not make changes in response to this comment.

Comment 21

I oppose any further requirements for gasoline dispensers. The present system is not effective or worthwhile. Making any changes will not improve environmental conditions by further reducing vapor during refuel.
Sources (man-made and natural) of other VOCs far exceed gasoline filling stations.
These vapors have not been proven to cause adverse risks to life, in the present atmospheric concentrations. They are detectable by human smell but that doesn't make them harmful.
Commenter: Troy Wecker – Unknown Affiliation

Response
Thank you for your comment. No changes were suggested to the proposed rules. DEQ did not make changes in response to this comment.

Comment 22

Thank you for extending the public comment period on this important issue. If DEQ can further limit toxic emissions at the gas pumps, it will benefit 100% of our population, whether one drives a vehicle or not. lease change rules to further tighten gasoline dispensing facility emissions.
Commenter: Shawn Looney – Unknown Affiliation

Response
Thank you for your comment. No changes were suggested to the proposed rules. DEQ did not make changes in response to this comment.

Comment 23
The proposed text of 340-244-0247(6) has a note calling out codes pf practice for the installation of the piping associated with vapor recovery systems. No mention is made of the PEI's RP300: Installation and Testing of Vapor Recovery Systems This is the nationally-recognized code of practice for installation of vapor recovery systems, and should be required for new construction and repairs, in a manner that can be enforced.

In addition, it seems that no mention is made anywhere about a requirement that all equipment attached to a UST system be compatible with the substance stored. This is a potentially hazardous oversight, as petroleum products can damage piping not designed to contain them. I ask that you add an enforceable provision to the proposed rules that requires compatibility for all installed equipment that comes into contact with petroleum vapors.
Commenter: Diana Foss – Oregon DEQ

Response
Thank you for your comment. DEQ has updated the note under OAR 340-244-0247(6) to include RP300. DEQ has also added a new section under OAR 340-244-0234(12) to clearly require that equipment in gasoline service (liquid and/or vapor) must be compatible with gasoline according to manufacturer's instructions or documentation.

Comment 24

Thank you for your prompt and thorough response to my previous letter. Since it was submitted, DEQ has reopened the public comment period on Gasoline Dispensing Facility (GDF) Emissions proposed rule. Please include my comments below in the public record in response to the proposed modifications to the state's GDF regulations.

While I appreciate that DEQ has tried to accommodate some of industry's concerns around cost impacts, I'm hoping more can be done. With that in mind, I request that DEQ either make modifications to the proposed rule or consider re-opening a Rules Advisory Committee to modify the proposed rules based on the following:

-The agency should have confidence that businesses can implement the rule.
The agency appears to recognize that businesses could struggle to meet the regulatory requirements due to lack of consultants, equipment availability, and experienced contractors required to implement the new regulations. It is unacceptable to ask businesses to do more than can physically be done. The timelines and requirements need to be re-examined given the known constraints.

-The agency should identify the least-cost regulation, particularly for businesses facing increased regulations and declining sales.

DEQ has established rules designed to reduce the sale of petroleum fuels which is also the subject of the proposed GDF regulations. Improvements in fuel efficiency coupled with electrification incentives, and new regulations capping the sale of petroleum fuel are causing a decline in gasoline sales across the state. This is further evidenced by declining gas tax revenues. The agency has taken credit for potential air quality improvements from the decreased use of petroleum fuels as a result of other regulations. Those same benefits should be factored into this rulemaking. Put another way, because of the anticipated declining use of gasoline the agency could adopt less burdensome regulations without compromising its overall air quality improvement strategies. This decline in sales begs the question of whether or not new GDFs are necessary to achieve air quality improvements at all. And importantly, what cost burdens these businesses can withstand. For example, it is harder to recover any capital investment, no matter how large, with declining sales. With that in mind, DEQ should look at the least costly option for removing Stage II requirements that will benefit Oregon's air quality without mandating new, expensive replacement equipment.

-Because DEQ cannot offer any financial relief of incentives, the agency should find the least cost option for meeting federal air quality standards.
While developing the rule, the RAC acknowledged that the regulatory costs could be a burden on gas stations and to mitigate those burdens the RAC recommended that the state should consider incentives to help businesses meet these new requirements. As you point out in your response, DEQ does not offer financial incentives. Nevertheless, the agency could still choose a less costly alternative than what was chosen to help our small and medium sized businesses comply with this new costly program.

In addition, to better understand the impacts to businesses in my district under this new regulation, can DEQ send me a list of facilities, including locations, that have gasoline fuel throughout of:

1)Below 120,000 gallons annually
2)Below 600,000 gallons annually, but not less than 120,000 gallons annually
3)Below 1,000,000 gallons annually, but not less than 600,000 gallons annually
4)Above 1,000,000 gallons annually.

Commenter: Lynn Findley – Oregon State Senator District 30

Response

Regarding the comment on lack of available service providers: DEQ agrees with the commenter. Please see DEQ's response to comment #10.

Regarding the comments about the least-cost option: Oregon DEQ is pursuing the proposed changes in order to improve air quality and remove equipment requirements that no longer result in desired air quality benefits, such as Stage II equipment. Oregon DEQ took into consideration various cost options, and pursued new vapor recovery requirements that were less costly than the requirements initially considered by the rulemaking advisory committee. Oregon DEQ estimates that costs associated with new requirements will be reasonable for gasoline dispensing facilities with smaller throughput, and the largest costs will be incurred by gasoline dispensing facilities with higher throughput.

The most expensive aspects of the new rule requirements include: 1) decommissioning of incompatible Stage II equipment, and 2) replacement of underground storage tanks when they are decommissioned. There are 154 gasoline dispensing facility sources in Clackamas, Washington, or Multnomah County with incompatible Stage II Vapor Recovery equipment that will incur the most immediate costs among GDFs across the state. This aspect of the new rules is designed to minimize emissions of volatile organic compounds, which contribute to the formation of ground level ozone in our State. Ozone pollution is a serious public health concern and can cost the U.S. $7.9 billion annually[17]. For most facilities, requirements for new or different vapor control equipment only go into effect when a new storage tank is being added or an existing tank is being replaced; The rules were written that way so the GDF owner would incur cost around tank replacement when they are already investing in new equipment.

Comment 25

We would like to see the agency consider updating the General Air Contaminant Discharge Permits so their limits match the effectiveness of current, more effective vapor recovery equipment. There are updated technologies available to the industry which have been installed in many facilities in other states which reduce emissions at fuel facilities.

Commenter: Dave Painter – Barghausen Consulting Engineers, Inc.

Response

Thank you for your comment. The Air Contaminant Discharge Permits are not directly a part of this rulemaking. No changes were made in response to this comment.

Comment 26

LRAPA has reviewed the proposed rules and suggests that DEQ consider including the following:

1. Steps service providers must take when decommissioning Stage II vapor recovery systems
2. OAR 340-244-0232 GDF: Purpose – suggest moving this rule to appear prior to the Definitions rule. Also, in lieu of "These rules" (used twice) LRAPA suggests using "Rules OAR 340-244-0231 through 340-244-0251" in OAR 340-244-0232
3. Add a definition of "aviation gasoline"
4. OAR 340-244-0250(2)(b) – In lieu of "station personnel", LRAPA suggests DEQ use "the owner or operator of a GDF"

Commenter: Max Hueftle – Lane Regional Air Protection Agency

Response

Regarding the comment on service provider decommissioning of Stage II vapor recovery systems: DEQ has added language to OAR 340-244-0247 under a new section (6) to include specific steps that must be followed to remove, cap, or otherwise decommission a Stage II

[17] 2021. De Alwis, D. and Limaye, Vijay, S. Report by the Natural Resources Defense Council. *The Costs of Inaction: The Economic Burden of Fossil Fuels and Climate Change on Health in the United States*. https://www.nrdc.org/sites/default/files/costs-inaction-burden-health-report.pdf

vapor recovery system. Additional reporting requirements on this topic were also added to OAR 340-244-0251(7).

Regarding the comment about moving -0231 and -0232: DEQ has switched the place of these two rules; the ‘purpose’ rule is now -0231 and the ‘definitions’ rule is now -0232. DEQ has also replaced the text of ‘these rules’ with specific OAR citations referring to the GDF rules within Division 244.

Regarding the definition of ‘aviation gasoline’: DEQ has added a definition to the proposed rules for ‘aviation gasoline’.

Regarding the comment about ‘station personnel’: DEQ agrees with the suggested change. The requirement was intended to apply to the owner/operator of the GDF instead of employees who may work at the facility. DEQ has changed the text ‘station personnel’ to ‘the owner or operator’. The lead-in rule language to this subsection clarifies the requirement is applicable to the owner or operator of the GDF, but further clarification is reasonable.

Attachment D: Rule Table Attachments

Attachment D consists of two separate documents:

1. Table attachment to OAR 340-244-0246. “Enhanced Vapor Recovery Systems, Manufacturer’s Requirements, Installation Specifications, and Warranty Information”
2. Table attachment to OAR 340-244-0249. “Gasoline Dispensing Facility Test Methods”

These documents have been included with the staff report submitted to the EQC.