

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Stage II Vapor Recovery
(LAC 33:III.2132) (AQ291)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2132 (Log #AQ291).

The proposed rule will provide an exemption from Stage II vapor recovery requirements for dispensers used exclusively for the initial fueling and/or refueling of vehicles equipped with onboard refueling vapor recovery (ORVR) equipment. Refueling emissions are captured via vehicle ORVR equipment instead of the dispenser. This rule will enable E85 (85 percent ethanol and 15 percent gasoline) fuel pumps to operate and dispense E85 fuel within the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. Louisiana's Stage II vapor recovery rule requires California Air Resource Board (CARB) certification or equivalent for gasoline dispensing units in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. However, at this time there is no CARB certification available for E85 units. These E85 dispensers are used exclusively to dispense fuel to E85-capable vehicles, which are equipped with ORVR equipment. The ORVR systems are considered to be as efficient as Stage II vapor recovery equipment in reducing emissions from fueling and refueling. Since the majority, if not all, of the E85-capable vehicles have ORVR, the EPA via its December 12, 2006, guidance memo to regional air directors allows states flexibility for exempting E85 pumps from Stage II requirements. Additionally, this rule will exempt vehicle manufacturing and rental car facilities where dispensers are used solely for fueling vehicles equipped with ORVR. This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to prevent the unnecessary expense of complying with Stage II requirements when emissions that would be vented to the atmosphere are captured via vehicle ORVR instead of the Stage II dispenser. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to

participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ291. Such comments must be received no later than October 2, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3398 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ291. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. – B.7. ...

8. Exemption. Any segregated motor vehicle fuel dispensing system used exclusively for the fueling and/or refueling of vehicles equipped with onboard refueling vapor recovery equipment (e.g., initial fueling of new vehicles at automobile assembly plants, refueling of rental cars at rental car facilities, and refueling of flexible fuel vehicles at E85 dispensing pumps), located at a facility subject to this regulation, is exempt from the requirements in Paragraphs B.5 and 6 of this Section.

89. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental ~~Assessment~~Compliance within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. – I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:**, LR 34:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ291

Person
Preparing
Statement:

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Return
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Rule

Title: Stage II Vapor Recovery
(LAC 33:III.2132)

Baton Rouge, LA 70821-4314

Date Rule

Takes Effect: Upon promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no appreciable costs/savings anticipated to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no appreciable increase or decrease in revenues anticipated to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no appreciable impact anticipated to purchasers of E85 (85 percent ethanol and 15 percent gasoline) fuel. Sellers of this fuel will see the benefit of an additional cost avoided as they will not have to invest in stage II vapor recovery systems.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no appreciable effect anticipated on competition or employment as everyone operating the E85 pumps will incur the same costs and benefits.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule will provide an exemption from stage II vapor recovery requirements for dispensers used exclusively for the initial fueling and/or refueling of vehicles equipped with onboard refueling vapor recovery (ORVR) equipment. Refueling emissions are captured via vehicle ORVR equipment instead of the dispenser. This rule enables E85 (85% ethanol and 15% gasoline) fuel pumps to operate and dispense E85 fuel within the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Louisiana's stage II vapor recovery rule requires California Air Resource Board (CARB) certification or equivalent for gasoline-dispensing units in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. At this time, there is no CARB certification available for E85 units. These E85 dispensers are used exclusively to dispense fuel to E85-capable vehicles that are equipped with onboard refueling vapor recovery (ORVR) systems. These ORVR systems are considered to be as efficient as stage II vapor recovery equipment in reducing emissions during fueling and refueling. Since the majority, if not all, of the E85-capable vehicles have ORVR, the Environmental Protection Agency in a December 12, 2006, guidance memo to Regional Air Directors gave states flexibility to exempt E85 pumps from stage II requirements. Additionally, this rule will exempt vehicle manufacturing and rental car facilities where dispensers are used solely for fueling vehicles equipped with ORVR.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ___ Yes. If yes, attach documentation.

(b) ___ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY08-09	FY09-10	FY10-11
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There are no appreciable costs/savings that will result from this rule change.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY08-09	FY09-10	FY10-11
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The agency has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no appreciable impact anticipated to state or local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There is no appreciable impact anticipated to state or local governmental units' sources of funding.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY08-09	FY09-10	FY10-11
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There is no appreciable increase or decrease in revenues anticipated to state or local governmental units.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There is no appreciable impact anticipated to purchasers of E85 fuel. Sellers of this fuel will see the benefit of an additional cost avoided as they will not have to invest in stage II vapor recovery systems.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There is no appreciable impact anticipated from this rule change.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no appreciable impact anticipated on competition or employment as everyone operating the E85 pumps will incur the same costs and benefits.