
NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division

Revision of Stage II Regulations Regarding Decommissioning Vapor Recovery Equipment
(LAC 33:III.2132) (AQ377)

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 (AQ377).

Currently LAC 33:III.2132 “Stage II” requires certain Motor Vehicle Fuel Dispensing Facilities (MVVDF) to install vapor recovery equipment as required by Section 202(a)(6) of the Clean Air Act. The U.S. Environmental Protection Agency (EPA) has determined that the systems used at gas station pumps to capture gasoline vapors while refueling cars can be phased out. Modern vehicles are equipped to capture those emissions with onboard refueling vapor recovery (ORVR) technologies.

This Rule will amend § 2132 to: (1) terminate the requirement to install Stage II Vapor Recovery Systems at new MVVDF; (2) provide standards and requirements for decommissioning existing Stage II equipment at MVVDF; and (3) require the decommissioning of existing Stage II equipment within eighteen months of final approval of a SIP revision by the US EPA to eliminate Stage II requirements. The basis and rationale are to update the regulations to reflect the EPA determination that Stage II vapor recovery equipment can be phased out. This 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.

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ377. Such comments must be received no later than June 6, 2018, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations 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 AQ377. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 30, 2018, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are 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; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General 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.1. ...

2. Except as provided in Subsection J, Nnew facilities constructed after promulgation of this regulation shall comply with the requirements of this regulation upon start-up of the facility.

3. Except as provided in Subsection J, Aall facilities existing when these rules are promulgated that dispense greater than 10,000 gallons of gasoline per month (50,000 gallons of gasoline per month in the case of an independent small business marketer of gasoline) are subject to this regulation and shall demonstrate to the administrative authority their average monthly volume of motor vehicle fuel dispensed. This information shall be submitted to the administrative authority no later than 90 days after promulgation of this regulation. The criteria that mandate the installation of gasoline vapor recovery equipment are determined by calculating the average volume of motor vehicle fuel dispensed per month, without facility shutdown, for the most recent two-year period, and shall be calculated monthly. If data for two years is not available, this calculation shall be based on the monthly average for the most recent 12 calendar months, including only those months for which the facility was operating.

4. Except as provided in Subsection J, Ffacilities subject to the provisions of this Section shall demonstrate compliance according to the following schedule:

a. — d. ...

5. Except as provided in Subsection J, ~~N~~o owner or operator as described in Paragraphs B.1, 2, and 3 of this Section shall cause or allow the dispensing of motor vehicle fuel at any time unless all fuel dispensing operations are equipped with and utilize a Stage II vapor recovery system certified by CARB on or before March 31, 2001, that is properly installed and operated in accordance with the corresponding CARB executive order. The vapor recovery equipment must also be installed and operated within the guidelines of the National Fire Protection Association (NFPA) 30. The vapor recovery equipment utilized shall be certified by CARB or equivalent certification authority approved by the administrative authority* to attain a minimum of 95 percent gasoline vapor control efficiency. This certified equipment shall have coaxial hoses and shall not contain remote check valves. In addition, only CARB or equivalent approved aftermarket parts and CARB or equivalent approved rebuilt parts shall be used for installation or replacement use. CARB certified enhanced vapor recovery systems and/or individual parts are approvable by the administrative authority* as equivalent alternatives.

6. Except as provided in Subsection J, ~~T~~he regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the Stage II Vapor Recovery System:

a. — c.iv. ...

7. Once a facility becomes subject to this regulation, that facility shall continue to be subject to this regulation even if throughput drops back below the throughput exemption level until the facility decommissions its Stage II equipment in accordance with Subsection J.4.

8. — 9. ...

C. Training

1. Except as provided in Subsection J, ~~A~~at least one

owner/operator/employee from each facility shall receive training in the categories listed in this Section. For each person who successfully completes training, a certificate or other proof of training shall be required. The required training shall be completed prior to the initiation of operation of a facility's Stage II Vapor Recovery equipment. Training shall include the following areas:

1.a. — 2. ...

D. Testing

1. Except as provided in Subsection J, ~~T~~he owner/operator of the facility

shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. — 3. ...

E. Labeling. Except as provided in Subsection J, ~~T~~he facility owner/operator shall post operating instructions conspicuously on the front of each gasoline dispensing pump using a Stage II vapor recovery system. The instructions shall include:

1. — 3. ...

F. Inspection

1. Until the Stage II equipment is decommissioned in accordance with Subsection J.4, ~~T~~he facility owner or operator shall maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and free of defects that could impair the effectiveness of the system, including but not limited to:

F.1.a. — H.2.b. ...

I. Fees. The fees are defined in LAC 33:III.223.

J. Termination of Stage II Program

1. The provisions of this Subsection shall be effective upon the effective date of final approval by the EPA of a revision to the state implementation plan (SIP) to incorporate this Subsection.

2. Notwithstanding any other provision, a new facility constructed after EPA approval of the SIP revision in J.1 of this Section is exempt from requirements of this Section.

3. An existing facility with Stage II vapor recovery equipment shall complete decommissioning of the Stage II equipment no later than 18 months from EPA approval of the SIP revision in Paragraph 1 of this Section. The failure to properly and timely decommission a Stage II vapor recovery system in accordance with this Subsection shall be a violation of the Act and these regulations and subject to an enforcement action, which may include requiring decommissioning of the Stage II vapor recovery system and/or the prohibition of the sale/dispensing of gasoline at the facility. Once the decommission of the Stage II vapor recovery system has been completed in accordance with this Subsection, the facility is no longer subject to the requirements of this Section, except to comply with notifications, procedures, and recordkeeping associated with decommissioning.

4. Decommissioning

a. All decommissioning shall be performed in accordance with this Paragraph.

i. Notice

(a). The owner or operator of a facility shall submit written notification of intent to decommission the Stage II vapor recovery equipment at least 30 calendar days prior to the beginning of any decommissioning activity to the Louisiana Department Environmental Quality. The notice of intent shall include:

(i). gasoline dispensing facility name and location address;

(ii). owner name, address, and phone number;

(iii). operator name, address, and phone number;

(iv). on-site supervisor/contractor name, address, and phone number; and

(v). planned decommissioning start date.

(b). If decommissioning activities are not initiated within 180 calendar days after the date the notice of intent to decommission is received by the department, the owner or operator of the gasoline dispensing facility shall refile the notice of intent to decommission for the gasoline dispensing facility location.

(c). The owner or operator of the gasoline dispensing facility shall notify the department in writing no later than 10 calendar days after completion of all decommissioning activity at the gasoline dispensing facility.

b. Required Decommissioning Activities

- i. Only technicians who have received appropriate training, have all of the required tools, and possess the required regulatory and equipment-manufacturer certifications shall perform the Stage II decommissioning procedure.
- ii. The owner or operator of the gasoline dispensing facility shall perform and complete all of the following decommissioning activities, as applicable, in a manner consistent with the Petroleum Equipment Institute Recommended Practices 300-09 (PEI/RP 300-09), Section 14 for the particular Stage II vapor recovery system equipment installed at the gasoline dispensing facility, including:
 - (a). initiate safety procedures appropriate to the facility;
 - (b). relieve pressure in the tank ullage by removing all pressure/vacuum vent valves;
 - (c). drain all liquid collection points and vapor pumps for individual dispensers;
 - (d). remove all centrally located vapor pumps;
 - (e). disconnect all electrical components of the Stage II system so that no electrical hazards are created (e.g., all vapor pumping or processing units and dispenser electronics);
 - (f). reprogram the dispenser electronics to reflect that Stage II vapor recovery is no longer in service;

(g). securely seal the below-grade vapor piping at a height below the level of the base of the dispenser using only threaded plugs, threaded caps, or glued fittings;

(h). disconnect and seal off the vapor piping at the tank top if this can be done without excavation and without interfering with the vent line using only threaded plugs, threaded caps, or glue fittings;

(i). securely seal the lower end of the vapor piping inside the dispenser cabinet using only threaded plugs, threaded caps, or glue fittings;

(j). replace the Stage II hanging hardware including hoses, nozzles, swivels, and breakaway components with conventional, industry-standard hanging hardware;

(k). install appropriate pressure/vacuum vent valve(s);

(l). remove any Stage II instructions from the dispenser cabinet;

(m). conduct a visual check to verify that the visible components of the storage system are left in a condition that will reliably prevent the release of any vapors or liquids from any components of the storage system;

(n). conduct a pressure decay test;

(o). disconnect the central vacuum motor if present on the Stage II system and seal piping using only threaded plugs, threaded caps, or glue fittings;

(p). provide written documentation, as provided on the department website, including the Stage II decommissioning checklist and any contracts, work

orders, certifications, or other appropriate record that the appropriate work to decommission Stage II equipment was performed; and

(q). complete all decommissioning activity at a gasoline dispensing facility location within 30 calendar days after the date decommissioning activity was initiated.

iii. Stage II dispensers may be removed and replaced with conventional dispensers, provided any applicable procedures in Clause ii of this Section are performed in a manner consistent with the Petroleum Equipment Institute Recommended Practices 300-09 (PEI/RP 300-09), Section 14 for the particular Stage II vapor recovery system equipment installed at the gasoline dispensing facility.

c. Decommissioning Completion Notice

i. The owner or operator of the gasoline dispensing facility shall notify, in writing, the department no later than 10 calendar days after completion of all decommissioning activity at the gasoline dispensing facility. Notification shall include:

(a). gasoline dispensing facility name and location address;

(b). owner name, address, and telephone number;

(c). operator name, address, and telephone number; and

(d). provide a copy of the documentation, including the checklist, demonstrating the appropriate actions for decommissioning of Stage II equipment.

d. The Stage II equipment shall be considered as decommissioned upon receipt of the decommissioning completion notice by the department.

e. The facility owner/operator shall maintain all documents related to decommissioning activities for at least four years and present them to an authorized representative of the department upon request. These documents may include:

- i. checklists, contracts and invoices associated with decommissioning of the Stage II vapor recovery system; and
- ii. contracts, invoices, check lists, and results for required testing for decommissioning of the Stage II vapor recovery system.

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 34:1890 (September 2008), LR 34:2397 (November 2008), LR 37:1147 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2138 (November 2017), LR 44:

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ377

Person

Preparing

Statement:	<u>Yasoob Zia</u>	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225) 219-3586</u>	Office:	<u>Environmental Assessment</u>
	<u>Yasoob.Zia@la.gov</u>		

Return

Address:	<u>602 North Fifth Street</u>	Rule Title:	<u>Stage II Revision</u>
	<u>Baton Rouge, LA 70802</u>		<u>(LAC 33:III.2132)</u>
		Date Rule	
		Takes Effect:	<u>Upon promulgation</u>

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)

The Department of Environmental Quality anticipates a savings after all Stage II vapor recovery systems are eliminated. The department will no longer be required to conduct inspections and process the necessary paperwork once the systems are eliminated. The department anticipates all systems will be phased out by FY 21.

The proposed rule is in response to the EPA's determination that Stage II vapor recovery systems used at gas station pumps to capture gasoline vapors while refueling cars can be phased out. This is due to modern vehicles having the capability to capture the emissions with onboard refueling vapor recovery technologies. The proposed rule provides standards and requirements for decommissioning existing Stage II equipment and requires the decommissioning of existing Stage II equipment to take place within eighteen months of final approval by the EPA. This date has not yet been set, but is anticipated to be in 2018.

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

There will be a reduction in statutorily dedicated revenues after entities no longer utilize Stage II vapor recovery systems. Currently, there is an application fee of \$146 and an annual facility inspection fee of \$218. The department collected approximately \$60,000 in FY 17, and will no longer collect these revenues beginning in FY 21 when the department anticipates all systems to be phased out.

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

The proposed revision to the regulation will result in a positive net economic benefit to the regulated community. Although there will be a cost associated with removal or decommissioning of Stage II

equipment, this will be offset by the elimination of fees associated with the equipment and the cost of maintaining it.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment in the public or private sector as a result of the proposed rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, General 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).

This rule will provide for the elimination of the requirement for Stage II vapor recovery at certain motor vehicle fuel dispensing facilities and for the decommissioning of existing Stage II equipment. Expenses for the decommissioning of existing Stage II equipment will be offset by periodic maintenance costs that will be avoided.

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

The U.S. Environmental Protection Agency has determined that the systems used at gas station pumps to capture gasoline vapors while refueling cars can be phased out. Modern vehicles are equipped to capture those emissions with onboard refueling vapor recovery technologies. The elimination of Stage II requirements, standards for the decommissioning of existing equipment and a deadline to remove existing equipment will reduce expenses for both the regulated community and the Louisiana Department of Environmental Quality(LDEQ) through the removal of the regulated equipment. The regulated community will no longer need to incur the expenses of maintaining the regulated equipment and the LDEQ will no longer need to conduct inspections.

- 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.

No, 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	FY 18-19	FY 19-20	FY 20-21
PERSONAL SERVICES	-0-	-0-	-Decrease-
OPERATING EXPENSES	-0-	-0-	-Decrease-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
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.

Although there is anticipated to be a slight reduction in work regarding the Stage II program during FYs 2018-19 and 2019-20, the LDEQ will continue to implement the program during that time, including conducting inspections and processing the appropriate paperwork.

The LDEQ anticipates the Stage II program will be phased out and terminated by fiscal year 2020-21. At that time, the LDEQ will no longer be required to implement the program. This should result in the savings of man-hours and other operating expenses. The department will no longer be required to conduct inspections and process the necessary paperwork when the systems are eliminated. These resources will be able to be diverted to other programs within the department.

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

SOURCE	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-Decrease-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
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 LDEQ has appropriate funding 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.

No impact on local governmental units is anticipated.

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

There will be no costs or savings to local governmental units, so no funding sources will be affected.

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?

The Stage II vapor recovery program is implemented by LDEQ. There should be no impact on revenue collections by state and local governmental units other than LDEQ discussed in item I.

REVENUE INCREASE/DECREASE	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-Decrease-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
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 will be a reduction in statutorily dedicated revenues after entities no longer utilize Stage II vapor recovery systems. Currently, there is an application fee of \$146 and an annual facility inspection fee of \$218. The department collected approximately \$60,000 in FY 17, and will no longer collect these revenues beginning in FY 21 when the department anticipates all systems to be phased out.

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.

The U.S. Environmental Protection Agency has determined that the systems used at gas station pumps to capture gasoline vapors while refueling cars can be phased out. Modern vehicles are equipped to capture those emissions with onboard refueling vapor recovery technologies. The proposed rule will provide for the elimination of the requirement for Stage II vapor recovery at certain motor vehicle fuel dispensing facilities and for the decommissioning of existing Stage II equipment. Expenses for the decommissioning of existing Stage II equipment will be offset by periodic maintenance costs that will be avoided. The elimination of Stage II requirements, standards for the decommissioning of existing equipment and a deadline to remove existing equipment will reduce expenses for both the regulated community and the LDEQ through the removal of the regulated equipment.

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.

No impact on receipts or income of the affected persons or nongovernmental groups is expected.

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 will be no effect on competition or employment in the public or private sector.