

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of the Environment**
(DLS Control No. 15-171)

Overview and Legal and Fiscal Impact

The proposed regulations allow new gasoline dispensing facilities (GDFs) and GDFs undergoing major modifications to (1) decommission existing Stage II vapor recovery equipment in accordance with specified requirements; or (2) choose not to install new Stage II vapor recovery equipment.

The regulations present no legal issues of concern.

There is minimal fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of the Environment:

Air Quality: Stage II Vapor Recovery at Gasoline Dispensing Facilities:
COMAR 26.11.24.01, .01-1, .02, .03, .03-1, .04, and .07

Legal Analysis

Background

The Clean Air Act (CAA) requires Stage II vapor recovery equipment at GDFs in ozone nonattainment areas that are classified as moderate, serious, severe, or extreme. Stage II vapor recovery equipment transfers a mixture of fuel air vapors from the fill pipe used to fill a motor vehicle fuel tank to a gasoline service station's underground storage tank. Vapor capture occurs at the interface between the fill pipe and the dispensing nozzle. This prevents volatile organic compounds from polluting the air during refueling. Currently, Stage II vapor recovery equipment is required at all GDFs built after November 15, 1990 in Baltimore City, and in Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Montgomery, and Prince George's counties.

Onboard refueling vapor recovery (ORVR) is a vehicle emission control system also required under the CAA, starting with certain 1998 model year gasoline-powered light duty motor vehicles, and covering most vehicles by model year 2006. ORVR transfers the vapors to a canister in the vehicle that is filled with activated carbon. The energy content of the captured vapors in the ORVR canister is utilized when the vehicle engine is started.

When Stage II vapor recovery equipment and ORVR are operated together, it can result in a 1% to 10% *decrease* in control efficiency over what would be achieved by operating Stage II

vapor recovery equipment or ORVR alone. The U.S. Environmental Protection Agency (EPA) has determined that ORVR emissions reductions are essentially equal to and will soon surpass the emissions reductions achieved by Stage II vapor recovery equipment alone.

On May 16, 2012, EPA finalized a rule that authorizes EPA to revise or waive certain requirements of the Stage II vapor recovery program in ozone nonattainment areas when the EPA Administrator finds that ORVR systems are in widespread use in the highway vehicle fleet. Based on national data, EPA determined that the criteria for widespread use of ORVR was met on May 16, 2012. According to the department, given the widespread use of ORVR, Stage II vapor recovery equipment now provides increasingly less air pollution reduction compared with what is provided by ORVR and is less cost-effective.

Summary of Regulations

The regulations allow new GDFs and GDFs undergoing major modifications the option to (1) decommission existing Stage II vapor recovery equipment in accordance with specified requirements, or (2) choose not to install new Stage II vapor recovery equipment. More specifically, the regulations:

- allow existing GDFs undergoing major modifications to decommission Stage II vapor recovery equipment after the effective date of the regulations;
- allow existing GDFs to decommission Stage II vapor recovery equipment after October 1, 2016;
- allow GDFs constructed after the effective date of the regulations to operate without installing and operating Stage II vapor recovery equipment;
- require an owner or operator of a GDF that decommissions State II vapor recovery equipment to perform the decommissioning of the equipment in accordance with specified requirements;
- add three new test methods to the list of test methods that are incorporated by reference;
- prohibit an owner or operator of a GDF or of a gasoline tank truck from allowing gasoline to be loaded into a stationary tank unless a State I vapor balance system is installed, maintained, and operated;
- add two new tests that an owner or operator of a GDF that operates Stage II vapor recovery equipment must perform;
- reduce the number of days within which copies of test results must be submitted to the department from within 45 days to within 30 days of the test; and
- make conforming changes.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 1-404, 2-103, and 2-301 through 2-303 of the Environment Article as statutory authority for the regulations. The Secretary of the Environment has broad authority under § 1-404 to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary, including reviewing and revising regulations of the department. Section 2-103 provides the department with “jurisdiction over emissions into the air and ambient air quality in this State.” Further, § 2-301 authorizes the department to adopt regulations for the “control of air pollution in this State” and requires the department to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition. Finally, § 2-302 requires the department to adopt regulations that set emission standards and ambient air quality standards for each of the air quality control areas in the State.

This authority is correct and complete and the regulations comply with the legislative intent of the law.

Fiscal Analysis

There is minimal fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department, in its Estimate of Economic Impact, advises that the regulations have no impact on State or local governments. Based on additional information provided during the Department of Legislative Services’ analysis of the regulations, the department now advises that the regulations have minimal impact on State or local governments. The Department of Legislative Services concurs and notes that both State and local governments realize minimal savings from the repeal of the requirement to install and maintain Stage II vapor recovery systems at State and local fueling stations. Fueling stations that choose to decommission a Stage II vapor recovery system incur a one-time expense of approximately \$10,000 to \$15,000 to remove the system in accordance with U.S. Environmental Protection Agency and State requirements, but they realize annual savings in maintenance, testing, inspection, and recordkeeping costs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs and notes that small businesses realize minimal savings related to the repeal of the requirement to install and

maintain Stage II vapor system recovery systems. The department advises that new gasoline dispensing facilities save one-time capital expenditures of approximately \$14,000 to \$16,000 from the repeal of the requirement to install a Stage II vapor recovery system. Existing gasoline dispensing facilities that choose to decommission a Stage II vapor recovery system incur a one-time expense of approximately \$10,000 to \$15,000 to remove the system. Any facility that either foregoes installation or decommissions a Stage II vapor recovery system realizes a savings of approximately \$3,000 annually in maintenance, testing, inspection, and recordkeeping costs.

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