

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
VAPOR RECOVERY RULES:) **R13-18**
AMENDMENTS TO 35 ILL. ADM.) **(Rulemaking - Air)**
CODE PARTS 201, 218, AND 219)

NOTICE OF FILING

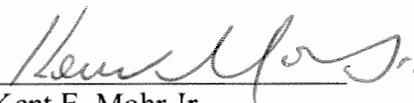
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PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the TESTIMONY OF DARWIN BURKHART and TESTIMONY OF ROSS COOPER of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
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DATED: April 24, 2013

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TESTIMONY OF DARWIN BURKHART

Good morning, my name is Darwin Burkhart and I am Manager of the Clean Air Programs in the Bureau of Air at the Illinois Environmental Protection Agency (Illinois EPA). Part of my duties is overseeing the Stage I and Stage II Gasoline Vapor Recovery program, as well as the proposed rulemaking and the Technical Support Document that we are here to present today. Other Illinois EPA staff with me today are Chuck Gebhardt, Jerry Clark, Mike Rogers, and Ross Cooper. These gentlemen contributed various portions and levels of expertise to the Technical Support Document and will be able to help answer any specific questions that the Board or audience may have. With regard to the rule amendments, primarily affecting the Stage II program with some minor changes for registrations on the Stage I program, I will be testifying on Parts 218 and 219 of the proposed rules, while Ross Cooper of our Air Permits section will be providing testimony on changes to Part 201 as they relate to air permits.

The Illinois EPA has proposed amendments to 35 Ill. Adm. Code Parts 201, 218, and 219 to phase-out the Stage II requirement for affected gasoline dispensing facilities, including both retail gas stations and private or commercial fuel facilities, in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes the Counties of Cook, DuPage, Kane, Lake, McHenry and Will and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County.

The Illinois EPA is proposing to phase-out the Stage II equipment installation requirement beginning January 1, 2014. On and after this date, new gasoline stations or facilities that are starting operation need not install Stage II equipment. In addition, beginning January 1, 2014, the owners of previously existing gas stations or facilities with Stage II equipment may begin decommissioning their vapor recovery equipment. The amendments also establish decommissioning procedures and timelines for facilities to properly decommission their existing Stage II equipment. These proposed rules provide for a three-year timeframe and require that existing Stage II equipment be decommissioned no later than December 31, 2016.

The authority for this action is contained in the U.S. Environmental Protection Agency's (U.S. EPA) May 16, 2012 final rule determining the "widespread use" of onboard refueling vapor recovery, or ORVR, equipment. In Clean Air Act Section 202(a)(6), Congress recognized that the implementation of ORVR would ultimately achieve equivalent emission reduction benefits as compared to Stage II and, therefore, allowed for the waiver of the Clean Air Act's Stage II requirement when ORVR-equipped vehicles were determined by U.S. EPA to be in "widespread use." In its final rule, U.S. EPA effectively defined "widespread use" to be when 75 percent of the gasoline dispensed is into vehicles that have ORVR systems. This widespread use determination allowed U.S. EPA to waive the Stage II requirement. As a result, states have the option of phasing-out their Stage II programs by submitting a revision to their State Implementation Plans (SIP) which are approved by U.S. EPA. However, as required by Section 110(l) of the Clean Air Act, states intending to remove or phase-out their Stage II requirements must demonstrate that such an action would not result in any net emissions increase, referred to as "backsliding."

As general background, the Clean Air Act required the implementation of Stage II systems at affected gasoline stations or facilities in moderate and worse ozone nonattainment areas in the early 1990's. The Illinois Pollution Control Board adopted the Stage II rules for the Chicago "severe" ozone nonattainment area in August 1992 phasing in the requirement for the installation and operation of Stage II vapor recovery equipment. The Illinois Stage II regulations require any facility in the Chicago nonattainment area that dispenses an average monthly volume of more than 10,000 gallons of gasoline to install and maintain Stage II vapor recovery equipment. Illinois' Stage II rule requires affected facilities to install California Air Resources Board-certified equipment that is at least 95 percent efficient in capturing gasoline vapors displaced during vehicle refueling.

The purpose of the Stage II equipment is to capture gasoline vapors displaced during vehicle refueling. When gasoline is dispensed into the partially empty vehicle gas tank, vapors are forced out of the tank and, if not captured, into the atmosphere. The vapors contain volatile organic compounds which, when reacted with other pollutants in the presence of sunlight, contribute to the formation of ground-level ozone pollution. The use of Stage II equipment captures these ozone precursor emissions, thereby improving air quality and human health in the Chicago nonattainment area.

There are two basic types of Stage II systems: vacuum-assist and balance. The vacuum-assist system uses a vacuum pump on the vapor return line of the gas dispenser to help draw vapors from the vehicle fill pipe through the nozzle and back into the underground gasoline storage tank. The balance system uses a rubber boot at the end of the nozzle to create a seal around the vehicle's fill pipe. With a balance system, a natural positive pressure differential is created

between the vehicle's fuel tank and the underground tank. This pressure differential draws the gasoline vapors from the vehicle's tank and into the underground tank without the aid of a mechanical pump as used in the vacuum-assist systems.

In addition to Stage II controls required at gasoline stations and facilities, the Clean Air Act also established ORVR requirements whereby auto manufacturers were required to start installing systems on board new vehicles to capture the gasoline vapors displaced during refueling. The ORVR system consists of an activated carbon canister into which refueling vapors are routed from the vehicle's fuel tank. These vapors are purged from the canister and into the engine where they are burned. Auto manufacturers were required to phase-in ORVR systems for new vehicles, starting in model year 1998 for light-duty cars and culminating in 2006 for heavier light-duty gasoline trucks. Since 2006, all new vehicles less than 14,000 pounds Gross Vehicle Weight Rating sold in the U.S. are equipped with ORVR systems. Based on recent research, U.S. EPA has found that ORVR systems are 98 percent efficient in capturing gasoline vapors during refueling.

When an ORVR vehicle is fueled at a gas station equipped with the most commonly used version of the vacuum-assist Stage II vapor recovery system, a lack of compatibility between the two controls actually cause the emission reduction benefits of the two systems acting together to be less than the emission reduction achieved by either system alone. Instead of capturing the displaced vapors, the vacuum in the dispenser draws fresh air into the underground storage tank. The fresh air causes gasoline in the underground tank to evaporate increasing pressure in the tank. As a result of the increased pressure, gasoline vapors are forced out of the underground storage tank vent pipe into the ambient air. This incompatibility can result in an estimated 1 to

10 percent decrease in control efficiency over what would be achieved by either Stage II or ORVR alone. The majority of the vacuum-assist systems in operation in the Chicago nonattainment area are incompatible with ORVR.

In the Chicago area, there are 2,420 affected gas stations and facilities that are equipped with Stage II controls. Of these, 2,320 or nearly 96%, use vacuum-assist equipment. The 100 other facilities use the balance-type Stage II controls. All retail gas stations in the Chicago area utilize the more consumer-friendly vacuum-assist systems, with the balance systems only found at private fleet facilities.

Of the 2,320 stations and facilities with vacuum-assist equipment, 2,005 (86%) have the models that are incompatible with ORVR, resulting in a decreased efficiency of the Stage II systems. Therefore, the Illinois EPA is proposing the required decommissioning of Stage II systems in the Chicago nonattainment area, since ORVR systems reduce vehicle refueling emissions more effectively than the majority of these currently-installed, incompatible systems.

In order to determine when the emissions reduction benefits of operating the Stage II program are equaled by the ORVR program, the Illinois EPA used U.S. EPA's MOTO Vehicle Emissions Simulator, or MOVES, model to evaluate refueling emissions. Illinois EPA used the MOVES Version 2010b with Chicago area-specific vehicle fleet information to estimate refueling emissions from 2007 through 2020 as ORVR-equipped vehicles become an increasing portion of the vehicle fleet. The Technical Support Document contains a summary of the key MOVES model inputs used as well as the complete model input and output files.

Figure 1 in the Technical Support Document, and attached hereto as Exhibit 1, shows the MOVES modeling results for the Chicago nonattainment area with and without Stage II vapor recovery systems installed at gasoline facilities. In the figure, the line with triangle markers represents total vehicle refueling emissions in tons per day (tpd) in the current situation; that is, assuming the expected level of vehicles with ORVR equipment and the required operation of Stage II equipment. The line with diamond markers represents vehicle refueling emissions assuming only ORVR-equipped vehicles. The figure also shows the “cross-over point”, where the “ORVR-only” line (diamonds) crosses the “ORVR + Stage II” line (triangles) in 2014. At this point, the emissions reduction benefits of an ORVR-only program equal the benefits of an “ORVR + Stage II” program. Beyond this point, the use of ORVR alone will result in achieving additional emission reductions.

Based on this analysis, it is for this reason that the Illinois EPA is proposing that new gas stations and facilities beginning operation on and after January 1, 2014 no longer be required to install Stage II equipment. We are also proposing that existing facilities be allowed to begin decommissioning their Stage II equipment on January 1, 2014 in accordance with the proposed decommissioning requirements. By waiting until January 2014 to begin phasing-out the Stage II program in Chicago, there will be no loss in emissions reductions benefits and, therefore, the proposal would comply with the Clean Air Act Section 110(l) “anti-backsliding” provisions. It is important to emphasize that, based on the MOVES analysis, Stage II is currently providing emission reductions above and beyond what ORVR is achieving by itself, until 2014.

The amendments in this rulemaking primarily serve to phase-out the Stage II requirements at facilities in the Chicago nonattainment area, require decommissioning procedures by which these

facilities are to appropriately decommission their current vapor recovery equipment, and establish timeframes for these actions to take place. These amendments, as described in detail in the Technical Support Document, primarily affect 35 Ill. Adm. Code Part 218. However, we are also proposing related clarifying and clean-up amendments in 35 Ill. Adm. Code Parts 201 and 219 that are also fully discussed in the Technical Support Document.

Subpart Y of 35 Ill. Adm. Code Part 218 contains the “Gasoline Distribution” regulations for the Chicago nonattainment area including the “Motor Vehicle Fueling Operations” requirements in Section 218.586. The majority of the rule revisions prompted by the proposed phase-out of the Stage II program occur in this Section. In addition to the substantive revisions to the rules addressing the phase out of the Stage II program and the inclusion of decommissioning procedures, certain provisions are either being deleted as no longer necessary, revised for clarity, or updated to replace outdated references.

The primary changes in this section to phase-out the Stage II program occur with revisions to subsections 218.586(d), now proposed to be entitled “Compliance”, and with the proposed addition of subsection 218.586(i) “Decommissioning.” Existing subsection 218.586(d)(1) through (5), which currently defines the time frame by which facilities of certain monthly gasoline throughput were required to comply with the vapor recovery and control requirements, is proposed to be deleted. Instead, the Illinois EPA is requiring that existing gas stations and facilities continue to operate their Stage II equipment until decommissioning is commenced on or after January 1, 2014. Per subsection 218.586(d)(2), beginning January 1, 2014, new gas stations and facilities will not be subject to Stage II vapor recovery requirements.

Proposed Section 218.586(i) defines the decommissioning time frames and procedures. In order to minimize the time that incompatible Stage II systems are in operation, we are also proposing that decommissioning of all Stage II equipment be completed within three years, or no later than December 31, 2016. The Illinois EPA has held outreach meetings and discussions with members of the petroleum marketing industry and with contractors likely to be involved in decommissioning work, and the three-year time frame was believed to be a reasonable amount of time for all existing affected facilities to complete the decommissioning work.

Subsection 218.586(i)(2) contains the decommissioning procedures and standards. In its August 7, 2012 document entitled "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures", included as Attachment C in the Technical Support Document, the U.S. EPA "recommends that currently available industry association codes and standards be followed (where applicable) to ensure that Stage II systems are properly ... dismantled or decommissioned." The Petroleum Equipment Institute has developed guidance entitled "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites" (hereinafter referred to as the "PEI") which contains, among other things, the steps involved in dismantling Stage II hardware for both balance and vacuum-assist type systems. This document is included as Attachment D to the Technical Support Document. The Illinois EPA is not aware of any other industry codes or standards specifically addressing Stage II decommissioning. Therefore, we are requiring that contractors follow the cited PEI procedures, as recommended by U.S. EPA in the aforementioned guidance, as these were developed by industry experts with a focus on regulatory compliance and safety. The Illinois EPA believes that consistent and uniform procedures should be in place to avoid gasoline liquid or vapor leaks during and after decommissioning. Therefore,

we are proposing to incorporate the PEI document by reference in Section 218.112.

In our outreach meetings, members of the petroleum marketing and petroleum equipment industry, as well as officials from the Office of the State Fire Marshal, were supportive of the requirement for the use of the PEI decommissioning procedures and standards. In checking with several other states with Stage II programs, the Illinois EPA learned that most are also adopting the PEI decommissioning procedures and standards and are incorporating them into their Stage II decommissioning requirements. In order to assure that the PEI decommissioning procedures are properly implemented, and as recommended by the PEI, the Illinois EPA is proposing to require that contractors involved in the decommissioning process are registered or licensed by the State. The PEI is vague on the qualifications and licensing of contractors for this purpose, but does state that contractors should have equipment manufacturer and state certifications. There are no State of Illinois licensing or registration requirements specific to the decommissioning of Stage II equipment. However, the State Fire Marshal and the Illinois Department of Agriculture have contractor licensing and registration requirements for work performed on gas station dispensers, underground storage tank piping, and tank testing. Specifically, the State Fire Marshal licenses contractors that perform underground storage tank and testing work, whereas the Department of Agriculture registers those who work on dispensers. All three agencies agree that contractors that are licensed with both the State Fire Marshal and the Department of Agriculture are best suited to perform the decommissioning work due to their experience in working with the dispensers, piping, and underground storage tanks. Therefore, we are proposing that contractors doing Stage II decommissioning work should be licensed with both the State Fire Marshal and Department of Agriculture. The three agencies further believe that, to ensure that the decommissioning work involving the dispenser is done correctly, including the reprogramming

of the dispenser software for the “no presence of Stage II” setting, the licensed contractor should also be certified by the specific dispensing equipment manufacturer to work on that manufacturer’s dispenser if the company provides such certification.

Specifically, the Illinois EPA is proposing that all decommissioning procedures, except testing, shall be performed only by a contractor who is (1) registered with the Illinois Department of Agriculture’s Bureau of Weights & Measures in the 3-A Gasoline Pump Meters Code, (2) licensed by the State Fire Marshal in its installation/retrofitting licensure module and (3) have the appropriate dispenser-manufacturer certification and training, if any. In addition, decommissioning procedures related to testing will be required to be performed only by a contractor who is licensed by the State Fire Marshal in the tank tightness testing licensure module. The pressure decay test, as required by the PEI, shall be passed in accordance with Appendix A of the PEI. The tie-tank test, also required by the PEI, shall be conducted and passed in accordance with the referenced California Air Resources Board’s test procedure to ensure that all tanks are properly vented. The Illinois EPA included these requirements to clarify the PEI that these tests must be passed. In the event that product piping is disconnected during decommissioning or other action is taken in which a State Fire Marshal permit is required for any component of the work, the contractor shall ensure that the State Fire Marshal-permitted work is performed by the appropriate licensed contractor and personnel. The Illinois EPA included this language to reference a potential tie-in to the State Fire Marshal requirements. The three agencies also believe that there is a sufficient number of contractors that meet the above licensing, registration, and certification requirements to enable all gas stations and facilities in the Chicago area to complete the decommissioning work in the proposed three-year time period. However, for those contractors that currently do not have the referenced state-issued licenses and

registration, both the State Fire Marshal and Department of Agriculture stated that they can get these from their respective departments within a reasonable amount of time.

The Illinois EPA also proposes to require that the owner or operator of a gas station or facility provide a 10-day notice of intent to decommission. This notice would allow us the ability to schedule an inspector to be present when the decommissioning takes place to the extent this is necessary.

The Illinois EPA is proposing to require that the owner or operator of the station or facility submit a Stage II decommissioning checklist and the test results, completed by the owner and contractors within 30 days after decommissioning. This checklist verifies that all of the decommissioning steps have been properly completed. All decommissioning records are to be kept for five years after decommissioning and made available upon request.

The Illinois EPA believes that the PEI procedures, as well as the remainder of the Agency's proposed decommissioning procedures and standards, are technically feasible. These procedures and standards and the related timeframes for the decommissioning work were supported by industry representatives and other state government agencies in our outreach meetings and communications.

In Section 218.583(e), the Illinois EPA is proposing to repeal the registration program for gas stations and facilities subject to the Stage I requirement upon adoption of these amendments by the Board. However, the Stage II registration requirements at Section 218.586(h) remain in effect until a station or facility begins the decommissioning process. The federal National

Emission Standards for Hazardous Air Pollutants (NESHAP) rules for gasoline facilities (40 CFR 63, subpart CCCCCC) include notification requirements for those that dispense 10,000 gallons of gasoline or more per month. Since the Illinois EPA administers and enforces NESHAP rules, it already has information on gasoline dispensing facilities. In addition, the State Fire Marshal and Dept. of Agriculture both have programs that track stations and facilities that would be subject to the Illinois EPA's Stage I and Stage II programs. Therefore, we are proposing to streamline the rules in favor of the other registration or notification requirements by deleting the Stage I registration requirements.

Repeal of the Illinois EPA's Stage I registration program and revision to the Stage II registration program would result in the unintended consequence of these sources being required to obtain an air permit. Therefore, with respect to state minor source permitting, in Section 201.146(l), we are proposing to exempt the stations and facilities subject to Stage I and Stage II from the requirement to obtain a permit. Also, for major Title V sources, we are proposing to add/clarify "insignificant activities" for storage tanks (Stage I) and fuel dispensing (Stage II). In addition, the Illinois EPA proposes minor clarifications to permitting regulations related to gasoline facilities. These clarifications and mechanisms to exempt these facilities through revisions to Part 201 are discussed in detail in the Technical Support Document.

The Illinois EPA is also proposing revisions to Part 219. This Part is applicable to the Metro-East ozone nonattainment area, which includes Madison, Monroe, and St. Clair counties. Section 219.105 sets forth test methods and procedures used in conjunction with this Part. Section 219.105(j) is no longer applicable due to the repeal of the Metro-East ozone

nonattainment area Stage II rule in February 1994. Therefore, the Illinois EPA is proposing to repeal these test methods.

Section 219.112(v) incorporates by reference U.S. EPA Stage II vapor recovery technical guidance. The reference to this guidance is no longer applicable due to the repeal of the Metro-East nonattainment area Stage II rule. Therefore, the Agency is proposing to repeal the reference to this guidance.

Section 219.583 describes the requirements for Stage I vapor recovery - storage tank filling operations at facilities in the Metro-East nonattainment area. In this section, the Illinois EPA is proposing to repeal the registration program. The federal NESHAP rules for gasoline facilities include notification requirements for those that dispense 10,000 gallons of gasoline or more per month. In addition, the State Fire Marshal and Dept. of Agriculture both have programs that track gas stations and facilities that would be subject to the Illinois EPA's Stage I program.

Therefore, we are proposing to streamline the rules in favor of the other registration or notification requirements by deleting the Stage I registration language in this section. The repeal of the Stage I registration program would result in the unintended consequence of these sources being required to obtain a permit. Therefore, in Section 201.146(l), we are proposing to exempt the stations and facilities subject to Stage I from the requirement to obtain a permit.

Regarding the costs for the implementation of this proposal, the U.S. EPA issued a final regulatory support document "Decommissioning Stage II Vapor Recovery Financial Benefits and Costs" on May 8, 2012, included as Attachment H of the Technical Support Document, outlining the near-term and long-term costs and cost-benefits of decommissioning Stage II vapor recovery

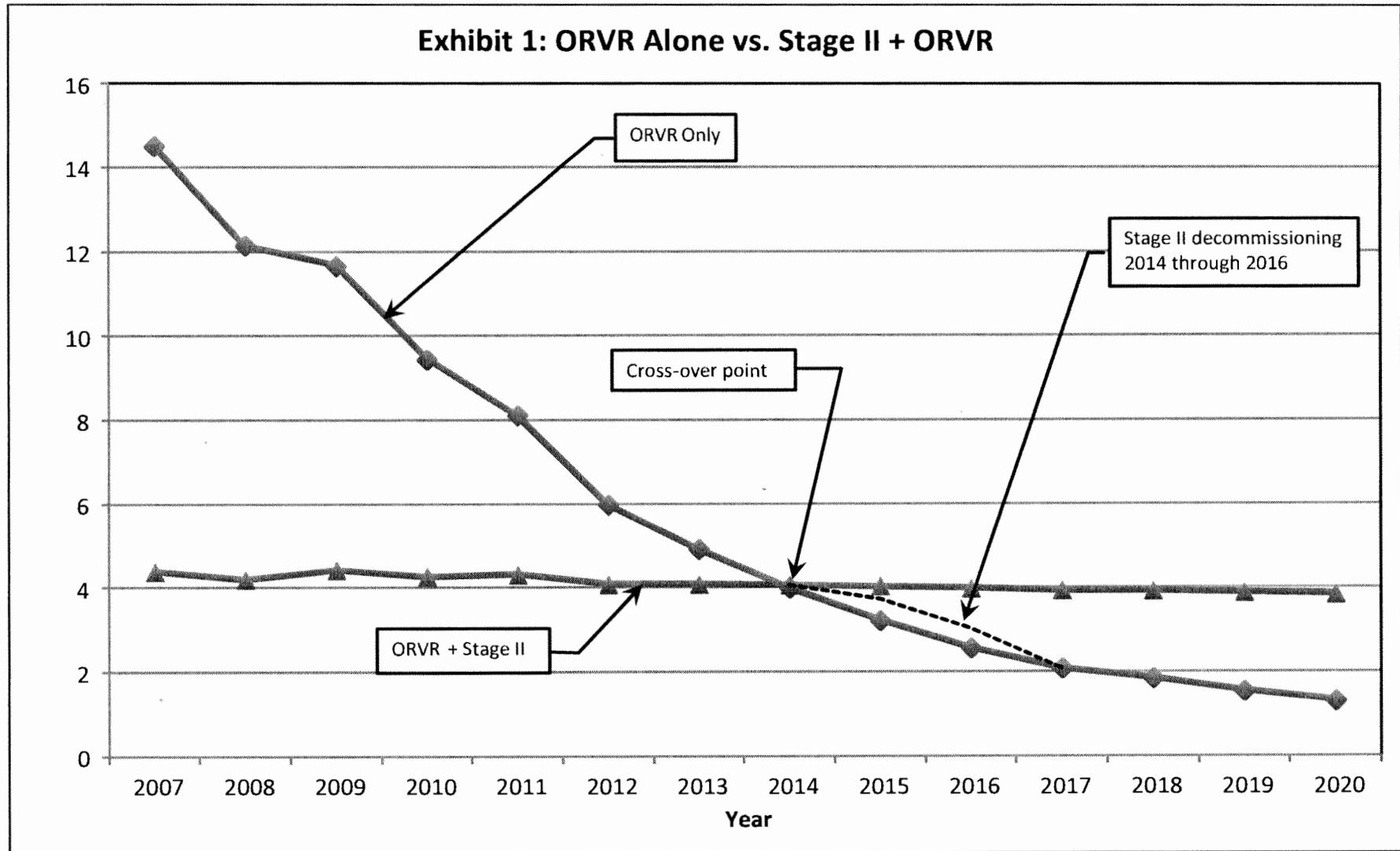
systems, presented as national averages. In addition, similar cost estimates were included in their final rule issued May 16, 2012. To augment the U.S. EPA's cost information, the Illinois EPA requested cost estimates from a few of the major licensed contractors that do gasoline dispenser and fuel infrastructure work in the Chicago area. The contractors provided a range of cost estimates related to the decommissioning of Stage II equipment. Cost ranges resulted due to the differences in the manufacturer of the dispenser, the type and design of the Stage II system, and the number of nozzles per dispenser.

The cost estimates received for decommissioning work range from \$2,000 to \$7,000 per station. The balance-type systems will be the least expensive systems to decommission, with cost estimates at \$2,000 or less. For the vacuum-assist systems, the dispensers with 2 nozzles, one on each side, will be in the lower half of the cost range. In the Chicago area, about half of the gasoline stations have 2-nozzle configurations, while the other half uses the 6-nozzle configurations, three nozzles on each side. The average decommissioning cost per station in the Chicago area is estimated to be about \$4,400, with the total cost for 2,420 facilities to decommission their equipment being about \$10.6 million.

U.S. EPA reported estimated annual cost savings, after incurring the initial decommissioning costs, to be in the range from \$3,000 to \$6,000. Those stations with 6-nozzle dispenser configurations that used to be equipped with Stage II will realize the higher cost savings within this range. This recurring annual savings factors in the elimination of Stage II maintenance and hardware replacement, electricity costs, and the direct and indirect costs for staff training and time spent on the monitoring and recordkeeping requirements for Stage II systems. Cost savings begin immediately after the decommissioning process is completed and, in the initial year, the

savings could be \$1,000 or more after subtracting the costs to decommission. U.S. EPA also stated in its August 7, 2012 guidance document that new facilities could save \$20,000 to \$60,000 by not having to purchase and install Stage II equipment and related hardware.

Overall, the Illinois EPA believes that this proposal is economically reasonable, considering the recurring annual cost savings after decommissioning is completed. This completes my testimony.



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TESTIMONY OF ROSS COOPER

My name is Ross Cooper and I am an Environmental Protection Engineer III with the Clean Air Act Permit Program (CAAPP) Unit of the Permit Section at the Illinois Environmental Protection Agency (Agency). After completing my bachelor's degree in Electrical Engineering from Northern Illinois University in 2001, I joined the Agency. While employed with the Agency I completed a Master's of Business Administration (MBA) from the University of Illinois at Springfield in 2004. During my employment with the Agency, I have worked on an individual and collaborative basis with air permitting programs for both major and minor stationary sources of air pollution, as well as various Agency rulemaking efforts.

The waiver of the Stage II requirement from the Clean Air Act, previously discussed, created ripple effects into 35 IAC 201.146, the State permit exemption list. That list holds a permit exemption conditioned on the emission source's registration with Stage I and II programs. Because the Stage II registration program will ultimately no longer be required and the proposed repeal of Stage I registration, the Agency was all but required to revise the affected permit exemption. With the Part to be reopened, the Agency took the opportunity to investigate thematically related state permit exemptions and CAAPP insignificant activities which could benefit from an update. After review of the existing regulations, the Agency is proposing several

revisions to the State permit exemption listing as well as the CAAPP insignificant activity listing.

The changes this rulemaking proposes regarding the State permit exemption listing of 35 IAC 201.146 are:

- a revised permit exemption at 35 IAC 201.146(l) which removes the reference to the Stage I registration and modifies its use by broadening the original scope of exempting retail gasoline stations to more generally exempt the storage and dispensing of fuels that are used exclusively for mobile sources (i.e, on-road or off-road vehicles and mobile equipment). This revision is desired to broaden the exemption's use beyond retail dispensing to include emission sources at private or commercial entities whose emissions from this activity are small, and to address the removal of Stage I and II registration requirements while maintaining the existing exemptions. This new revised exemption specifically does not recognize as an exemption the filling or dispensing of distribution vessels such as a tanker truck tanks, rail tanks, barge storage, or other such similar distribution vessels.
- a revised permit exemption at 35 IAC 201.146(n)(1) which proposes to strike the reference to Stage I and instead clarify the intent of the language that any amount of material or any mixture of any material that is listed as a Hazardous Air Pollutant (HAP) is not included in this storage tank permit exemption. Gasoline would be considered a mixture of materials containing HAP, and therefore is not be eligible to use this particular exemption. This revision is desired to correct a long standing

misinterpretation of the language's intent as written (i.e., gasoline does not apply as it is not a HAP pursuant to the definition of HAP).

- a revised permit exemption at 35 IAC 201.146(kk) which repeals that particular permit exemption (i.e., registration) as it is no longer applicable due to the Stage I and II permit exemption being moved to 35 IAC 201.146(l) without the registration requirement.
- a revised permit exemption at 35 IAC 201.146(nn) which removes the exclusion for gasoline fuel handling because gasoline fuel handling or dispensing to mobile sources is proposed to be exempt from permitting under the aforementioned 35 IAC 201.146(l).

The changes this rulemaking proposes regarding the CAAPP insignificant activity listing of 35 IAC 201.210 are:

- a revised insignificant activity at 35 IAC 201.210(a)(10) which specifically declares gasoline and/or gasoline-ethanol blends storage of less than 2,000 gallons to be considered as an insignificant activity. Two-thousand gallons (2,000) was utilized as the cutoff because that limitation is similarly used as a breakpoint in 40 CFR 63 Subpart CCCCCC and our existing state rules (i.e., 35 IAC 215/218/219.583(b)(2)), as well as an amount which provides a reasonable amount of usage to the source. This revision is desired to address the previous lack of categorical exemption for gasoline and/or gasoline-ethanol blends fuel storage in 35 IAC 201.210.
- a new insignificant activity at 35 IAC 201.210(a)(19) which specifically declares fuel dispensing activities into mobile sources (e.g., fleet vehicle, bull dozer, landfill compactor or other such similar on-road or off-road vehicle) to be considered an insignificant activity for:

- A) gasoline or gasoline/ethanol blend fuels if the annual average throughput of such fuel dispensed is less than 120,000 gallons (rolling 12 month total), and
- B) other fuels unrestricted by a throughput.

The separation of gasoline and gasoline-ethanol blends from other common fuels is due to emissions potential for the activity due to the difference in vapor pressure. One-hundred and twenty thousand gallons (120,000) was utilized as the cutoff because that limitation is also similarly used as a breakpoint in 40 CFR 63 Subpart CCCCCC (i.e., a monthly throughput of less than 10,000 gallons), as well as an amount which provides a reasonable amount of usage to the source. This proposal also defines fuel dispensing, as opposed to its state permitting equivalent which does not, because of the need for enhanced specificity and scrutiny for a major source. This new insignificant activity specifically does not recognize as an insignificant activity the filling or dispensing of distribution vessels such as a tanker truck tanks, rail tanks, barge storage, or other such similar distribution vessels. This revision is desired to address the previous lack of categorical exemption for gasoline or other fuel dispensing in 35 IAC 201.210.

Of note, common to both insignificant activity expansions was a threshold above which the eligibility no longer applies, unlike the similarly functioning state permit exemptions.

The rationale behind this difference is two-fold:

1. A major source of emissions, in general, as compared to a minor source of emissions, will have a greater potential for actual emissions as a result of a much larger overall source. It was therefore determined that usage at or above the

proposed limitations would be considered at a level worthy of greater permitting scrutiny.

2. Unique to the CAAPP program is the fact that every emission unit at a source is required to be addressed in the Title V permit, including insignificant emission units. As such, a rule like 40 CFR 63 Subpart CCCCCC is generally required to be addressed at some level in the permit. The cutoffs chosen for the proposed insignificant activities coincide with the cutoffs for more stringent actions from the rule (e.g., prescribed management practices or the operation of a vapor balance system, etc.), and thus were a natural parallel to distinguish when more stringent permitting would be required.
- a revised insignificant activity at 35 IAC 201.210(b)(4) which excludes the expanded usage of fuel (i.e., gasoline or gasoline/ethanol blend fuels or other fuels). The revision does not change that this particular insignificant activity is intended solely for vehicle maintenance and servicing activities at the source. This revision is necessary for consistency with the previously proposed fuel and dispensing changes.

The changes this rulemaking proposes regarding the reporting requirements of 35 IAC 201.302 are:

- a revised 35 IAC 201.302 which is modified to account for the evolution of newer exemptions and additional sources not requiring a permit (e.g., Registration of Smaller Sources (ROSS)). The modification involves redirecting its trigger for the requirement to submit an annual report (i.e., any emission unit unless specifically exempted) to the

applicability provisions for the Annual Emission Report (AER) of Part 254, specifically 35 IAC 254.102. Additionally, the reference to 35 IAC 201.302(d) is also proposed to be deleted as the exemption it draws upon is proposed to be moved to 35 IAC 201.146(l), and when combined with the redirected AER trigger is no longer needed.

Regarding the feasibility of the proposed new and modified exemptions and insignificant activities, the Agency believes that the changes are feasible. This rulemaking, rather than command and control via a given pollution control device or constriction of a work practice, proposes revisions which are effectively expansions to the existing listings, and hence no technical feasibility issue exists. The Agency does not foresee an adverse environmental impact as the proposed expanded activities are small sources of emissions which are bound to any and all applicable rules irregardless of the necessity for a permit. Regarding the economical reasonableness of the proposed revisions, the Agency believes that there will be a slight reduction in fees to the Agency from both major and minor source construction and operating permit fees as emission sources would now be able to avoid those fees which previously they triggered. Slightly lowering permitting fees for the Agency conversely means a slight cost savings to the affected sources. Finally, the permitting burden for the Agency and Permittee would be lowered through the expanded exemption and insignificant activity listings.

This concludes my testimony.

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

SS

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached TESTIMONY OF DARWIN BURKHART and TESTIMONY OF ROSS COOPER of the Illinois Environmental Protection Agency upon the following persons:

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