



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 03, 2019
TIME: 7:30 AM

WSR 19-21-005

Agency: Southwest Clean Air Agency

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR _____ ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or
- Proposal is exempt under RCW 70.94.141(1).

Title of rule and other identifying information: (describe subject)

SWCAA 491-020

Definitions. This is an existing section that contains the definition of terms in SWCAA 491.

SWCAA 491-030

Registration. This is an existing section requiring gasoline loading terminals, bulk gasoline plants and gasoline dispensing facilities subject to the provisions of SWCAA 491-040(2) through (4) to register annually with SWCAA.

SWCAA 491-040

Gasoline Vapor Control Requirements. This is an existing section containing gasoline vapor control requirements applicable to gasoline storage tanks, gasoline loading terminals, bulk gasoline plants and transport tanks, and gasoline dispensing facilities.

SWCAA 491-050

Failures, Certification, Testing and Recordkeeping. This is an existing section containing operation, certification, testing and recordkeeping requirements applicable to all gasoline transport tanks equipped for gasoline vapor collection and all vapor collection systems at gasoline loading terminals and bulk gasoline plants.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 4, 2019	6:00 PM	Office of SWCAA 11815 NE 99 th Street Vancouver, WA 98682	

Date of intended adoption: January 2, 2020 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Jerry Ebersole

Address: 11815 NE 99th Street, Suite 1294, Vancouver, WA 98682

Email: jerry@swcleanair.org

Fax: (360) 576-0925

Other:

By (date) November 22, 2019

Assistance for persons with disabilities:

Contact Tina Hallock

Phone: (360) 574-3058 x110

Fax: (360) 576-0925

TTY: (360) 574-3058

Email: tina@swcleanair.org

Other:

By (date) November 18, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

SWCAA proposes to adopt amendments to SWCAA 491 concerning gasoline dispensing facilities (GDF).

These amendments would:

SWCAA 491-020

Definitions. The proposed rule changes add definitions for enhanced conventional (ECO) nozzles, low permeation hoses, and onboard refueling vapor recovery.

SWCAA 491-030

Registration. The proposed rule changes correct rule references that will no longer be valid as a result of proposed changes to SWCAA 491-040.

SWCAA 491-040

Gasoline Vapor Control Requirements. The proposed rule changes:

- Correct an incorrect emission standard applicable to vapor control systems at gasoline loading terminals;
- Remove a requirement that two-point Stage I fittings be used with vacuum assist type Stage II systems;
- Add pressure and leak rate standards for pressure/vacuum valves;
- Add a requirement to install Enhanced Conventional Nozzles by January 1, 2023;
- Add a requirement that low permeation hoses be installed at higher volume gasoline dispensing facilities, without balance type Stage II vapor recovery equipment, by no later than January 1, 2023;
- Require annual testing of Stage I vapor recovery systems;
- Allow the use of an approved continuous pressure monitoring system in lieu of annual Stage I vapor recovery system testing;
- Add a requirement that spill containers be maintained free of liquid and solid materials;
- Add a requirement that all gasoline dispenser hoses be equipped with emergency breakaway devices;
- Add a requirement that new or upgraded gasoline storage tanks be equipped with Stage I Enhanced Vapor Recovery equipment;
- Remove a requirement that gasoline dispensing facilities install Stage II vapor recovery equipment;
- Allow removal from service of Stage II vapor recovery equipment compatible with ORVR on or after January 1, 2023;
- Allow removal from service of Stage II vapor recovery equipment incompatible with ORVR on or after January 3, 2020;
- Require removal from service of Stage II vapor recovery equipment incompatible with ORVR no later than January 1, 2023;
- Clarify construction approval and permitting requirements;
- Correct an outdated fee reference;
- Remove the applicability threshold for low flow nozzles to align the SWCAA rules with federal rules; and

- Correct rule references that will no longer be valid as a result of proposed changes to SWCAA 491-040

SWCAA 491-050

Failures, Certification, Testing and Recordkeeping. The proposed rule changes correct rule references that will no longer be valid as a result of proposed changes to SWCAA 491-040.

Reasons supporting proposal:

Onboard refueling vapor recovery equipment has been phased in for new passenger vehicles beginning with model year 1998 and beginning in 2001 for light-duty trucks and most heavy-duty gasoline-powered vehicles. Onboard refueling vapor recovery equipment has been installed on nearly all new gasoline-powered light-duty vehicles, light-duty trucks and heavy-duty vehicles since 2006.

During the phase-in of onboard refueling vapor recovery, Stage II vapor recovery systems required at higher volume gasoline dispensing facilities have provided volatile organic compound emission reductions in ozone nonattainment areas and certain attainment areas. On May 16, 2012, EPA determined that onboard refueling vapor recovery was widespread nationwide. At that time, more than 75 percent of gasoline refueling nationwide occurred with onboard refueling vapor recovery-equipped vehicles and Stage II vapor recovery systems were becoming largely redundant and achieving an ever-declining emission reduction benefit as more onboard refueling vapor recovery-equipped vehicles continue to enter the fleet. In fact, in areas where certain types of vacuum-assist Stage II vapor recovery systems are used, an incompatibility between onboard refueling vapor recovery and some configurations of this Stage II vapor recovery hardware may ultimately result in area-wide emission increases by as early as 2022. EPA’s determination allows any state or local agency currently implementing Stage II vapor recovery programs to eventually phase out those programs.

The proposed rules would update SWCAA rules to require removal of Stage II vapor recovery systems that are incompatible with onboard refueling vapor recovery starting in 2020, which will ensure that any increase in emissions due to this incompatibility will be minimized. The proposed rules would also update SWCAA rules to allow removal of compatible Stage II vapor recovery systems starting in 2023.

SWCAA’s current rules require Stage II vapor recovery systems in Clark County at all facilities dispensing 600,000 gallons in a calendar year or greater; in Cowlitz County at all facilities dispensing 1.2 million gallons in a calendar year or greater; and in Lewis, Skamania and Wahkiakum Counties at facilities that exceeds certain throughput thresholds and distances to the facility’s property line. SWCAA’s current estimate is that 84% of refueling in its jurisdiction is into ORVR equipped vehicles. Therefore, SWCAA has determined that allowing gasoline dispensing facilities to remove their Stage II vapor recovery systems would not result in emission rates in excess of the emission rates originally intended when the Stage II vapor recovery requirement was established. However, the removal of Stage II vapor recovery systems could result in minor increases in emissions at some stations. To minimize any increases in emissions due the removal of Stage II vapor recovery systems, the proposed rules would require gasoline dispensing facilities to install low drip nozzles and larger volume gasoline dispensing facilities to install low permeation hoses.

Statutory authority for adoption: RCW 70.94.141

Statute being implemented: RCW 70.94.141

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Southwest Clean Air Agency Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jerry Ebersole	11815 NE 99 th Street, Suite 1294, Vancouver, WA 98682	(360)574-3058 x122
Implementation:	Paul Mairose	11815 NE 99 th Street, Suite 1294, Vancouver, WA 98682	(360)574-3058 x130
Enforcement:	Jerry Ebersole	11815 NE 99 th Street, Suite 1294, Vancouver, WA 98682	(360)574-3058 x122

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: Pursuant to RCW 70.94.141(1), Section 201, Chapter 403, Laws of 1995, does not apply to this rule adoption. SWCAA is not voluntarily invoking Section 201, Chapter 403, Laws of 1995 for this action.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 70.94.141(1).

Explanation of exemptions, if necessary: Pursuant to RCW 70.94.141(1), air pollution control authorities are authorized to adopt and amend rules and regulations in accordance with Chapter 42.30 RCW and selected portions of Chapter 34.05 RCW. SWCAA is not deemed a state agency and is not required to comply with the provisions of Chapter 19.85 RCW.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 2, 2019

Name: Uri Papish

Title: Executive Director

Signature:

