

Stage II Vapor Collection System Enforcement Discretion Directive

This enforcement discretion directive (directive) is written in response to industry concerns regarding the proposed repeal of Stage II Vapor Collection System (Stage II) requirements currently found in part 230 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR Part 230). This existing regulation requires approximately 3,000 gasoline dispensing facilities in the New York Metropolitan Area and lower Orange County to install, maintain and test Stage II. The continually diminishing emissions benefits of Stage II, no longer justify the cost of installing new systems or maintaining existing ones. Therefore, the Department of Environmental Conservation is revising 6 NYCRR Part 230 to, among other things, reduce volatile organic compound (VOC) emissions from gasoline dispensing facilities by repealing Stage II requirements.

Without this directive, industry would be required to install new Stage II systems, and maintain and test Stage II even though the systems no longer reduce emissions of VOCs in New York State.

This directive protects air quality and provides industry with an alternative to compliance with Stage II requirements in 6 NYCRR §§ 230.2, Gasoline dispensing sites - prohibitions and requirements, and 6 NYCRR §230.5 Gasoline dispensing sites - recordkeeping and reporting.

The Department will exercise enforcement discretion at this time to relieve industry of Stage II requirements, provided that the criteria outlined in this directive are complied with. This directive is effective until 6 NYCRR Part 230 is revised.

Discussion

Gasoline is a volatile liquid. If not contained, the vapor escapes into the ambient air contributing to ozone. The Clean Air Act (CAA) requires two controls for capturing gasoline vapor during vehicle refueling: 1) Stage II, pursuant to CAA § 182(b)(3); and 2) Onboard Refueling Vapor Recovery (ORVR), pursuant to CAA §202(a)(6). Stage II captures vapor displaced from the vehicle fuel tank during refueling and returns it to the gasoline dispensing facility storage tank. Section 182(b)(3) stage II requirements apply in serious and above ozone nonattainment areas. In contrast to Stage II, ORVR directs the vapor away from the fuel tank fill pipe and into an activated carbon canister on the vehicle. ORVR was required for certain 1998 model year new gasoline-powered light duty motor vehicles (passenger cars and light trucks), with full phase in by model year 2006 for other classes of gasoline powered motor vehicles.

As ORVR-equipped vehicles replace older vehicles without ORVR, the amount of displaced gasoline vapors available for capture by Stage II continually diminish. Accordingly, the CAA §202(a)(6) allows the EPA administrator to waive stage II requirements once ORVR is in widespread use. EPA has not defined widespread use in terms of a specific ORVR penetration rate. However, a few states have eliminated stage II based on the following criteria: 1) EPA's widespread use modeling parameters; 2) the state's vehicle fleet characteristics; 3) the benefits/costs of keeping Stage II to capture vapors from older vehicles that do not have ORVR; and 4) the potential for fugitive emissions from ORVR/Stage II incompatibilities. Based on these criteria, ORVR is in widespread use throughout New York. The ORVR penetration rate for New York will exceed 80% in 2011 based on "widespread use" modeling, and will exceed 85% by 2013. Monitoring in New York and other states shows that Stage II VOC

capture is inefficient because of inherent system equipment leaks and poor maintenance. Furthermore, fugitive emissions are expected to increase as the number of ORVR vehicles in New York increase.

In addition to Stage II requirements prescribed by CAA §182(b)(3), states in the Ozone Transport Region (OTR) are subject to Stage II requirements or comparable measures prescribed by CAA §184(b)(2). Considering the inefficiencies of Stage II and the widespread use of ORVR in New York, decommissioning Stage II now will net comparable emissions reductions. Therefore, comparable measures are not needed.

Enforcement Discretion

The Department will exercise its discretion and not assess a violation for failure to comply with Stage II requirements in 6 NYCRR §§ 230.2 and 230.5 at gasoline dispensing facilities that:

- 1) begin operation after January 1, 2011 and would otherwise be required to install a new Stage II system;
- 2) become subject to Stage II requirements due to an increase in throughput after January 1, 2011 and would otherwise be required to install a new Stage II system; or
- 3) decommission existing Stage II in accordance with Stage II Vapor Collection Systems Decommissioning Procedures in Appendix A of this directive after January 1, 2011.

Gasoline dispensing facilities equipped with Stage II systems that are not decommissioned must continue to comply with existing Stage II requirements in 6 NYCRR §§ 230.2 and 230.5 until Stage II requirements are repealed.

All other requirements in 6 NYCRR Part 230 remain effective. A violation of effective regulations may subject the violator to enforcement.

Questions regarding this matter can be directed to darweb@gw.dec.state.ny.us

Approved May 25, 2011 by:

STEVEN C. RUSSO

Steven C. Russo
Deputy Commissioner
and General Counsel

Stage II Vapor Collection System Enforcement Discretion Directive Appendix A

Stage II Vapor Collection System Decommissioning Procedure

Any owner and/or operator of a gasoline dispensing site choosing to decommission a Stage II Vapor Collection System (Stage II) must:

- (1) drain and collect all accumulated liquids from all decommissioned equipment;
- (2) if applicable, remove any liquid drop-out tank or condensate trap or decommission by removing any accumulated liquid and capping off any siphon line associated with the tank;
- (3) if the Stage II vapor collection system equipment involves a vacuum-assist vapor pump, either remove or disable the pump;
- (4) if leaving the Stage II vapor collection system line in place, disconnect and cap off the vapor line at the dispenser end with a vapor-tight and liquid-tight cap or plug after purging the vapor line with nitrogen to void of any accumulated liquid;
- (5) if accessible without excavation, disconnect and cap off the Stage II vapor collection system line at the tank end with a vapor-tight cap or plug;
- (6) upon any instance of excavation exposing the Stage II vapor collection system line, remove the vapor collection system line;
- (7) replace the Stage II vapor collection system hanging hardware with conventional (non-Stage II) hanging hardware;
- (8) remove the Stage II vapor collection system operating instructions from all dispensers;
- (9) conduct a passing CARB Vapor Recovery Test Procedure TP-201.3 – Determination of 2-inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities to ensure the vapor tightness of the system; and
- (10) within 30 days of completing the decommissioning of the Stage II vapor collection system, provide documentation of the procedure(s) used to demonstrate that Stage II has been decommissioned accordingly to the Department at DARWeb@gw.dec.state.ny.us