



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

ADMINISTRATIVE ORDER NO. 2016-09

WHEREAS, the Federal Clean Air Act requires two types of controls for capturing gasoline vapor during vehicle refueling: (i) Stage II vapor recovery systems, which capture gasoline vapors at the gasoline pump nozzle and carry them back into the underground storage tank at the service station; and (ii) Onboard Refueling Vapor Recovery (ORVR) systems, which are carbon canisters installed inside vehicles to capture gasoline vapors before they reach the pump nozzle; and

WHEREAS, as codified at N.J.A.C. 7:27-16.3, New Jersey has implemented a mandatory Stage II program under section 182(b)(3) of the Clean Air Act; and

WHEREAS, the United States Environmental Protection Agency (EPA) has determined that Stage II vapor recovery systems and ORVR are redundant, and that emission reductions from ORVR are essentially equal to and will soon surpass the emission reductions achieved by Stage II alone (77 FR 28772); and

WHEREAS, EPA has stated that differences in operational design characteristics between ORVR and vacuum assist Stage II systems may in some cases cause a reduction in the overall control system efficiency of vehicle fuel tank emissions compared to what could be achieved by either individually; and

WHEREAS, beginning with model year 1998, ORVR equipment has been phased in for new vehicles, and has been a required control on nearly all new highway vehicles since 2006 and, over time, non-ORVR vehicles will continue to be replaced with ORVR vehicles; and

WHEREAS, the Clean Air Act allows EPA to waive the Stage II vapor recovery system requirement after determining that ORVR is in widespread use throughout the motor vehicle fleet; and

WHEREAS, on May 16, 2012 (77 FR 28772) the EPA determined that ORVR is in widespread use throughout the motor vehicle fleet and accordingly waived the requirement for states to implement Stage II vapor recovery systems at gasoline pumps, an action that the EPA determined would ensure that refueling vapor control regulations are beneficial without being unnecessarily burdensome to American business; and

WHEREAS, as of May 16, 2012, states that are implementing mandatory Stage II programs under section 182(b)(3) of the Clean Air Act may submit revisions to their State Implementation Plans (SIP) to remove such programs; and

WHEREAS, the New Jersey Department of Environmental Protection (Department) will initiate rulemaking to amend the Air Pollution Control rules at N.J.A.C. 7:27-16.3 to require the decommissioning of Stage II vapor recovery equipment at existing gasoline dispensing facilities, and to remove the requirement that Stage II vapor recovery equipment be installed at new gasoline dispensing facilities, which rulemaking shall constitute a proposed amendment to the State's SIP; and

WHEREAS, until such time as N.J.A.C. 7:27-16.3 is amended as set forth above it would be counterproductive to continue to require the installation of Stage II vapor recovery equipment at new gasoline dispensing facilities.

NOW, THEREFORE, I, Bob Martin, Commissioner of the Department, do hereby ORDER and DIRECT as follows:

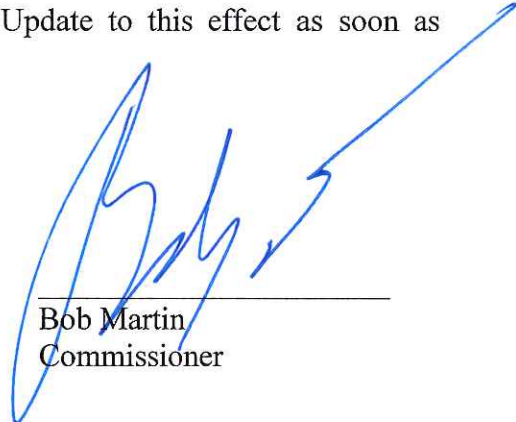
The Department's Divisions of Air Quality and Air Compliance and Enforcement shall exercise their enforcement discretion to allow a gasoline dispensing facility constructed on or after the date of this order to suffer, allow, or permit the transfer of gasoline into a gasoline laden vehicular fuel tank without meeting the Stage II vapor recovery system requirements

of N.J.A.C. 7:27-16.3(e)1, (e)2, and (e)4. The Divisions of Air Quality and Air Compliance and Enforcement shall issue a Compliance Advisory Update to this effect as soon as practicable.

This Order shall take effect immediately.

Date:

10/12/2016



Bob Martin
Commissioner