

MEMORANDUM

DATE: JUL 3 1 2012

TO: Motor Vehicle Fuel Dispensing Facility Owners and Operators

FROM: Kyra L. Moore, Director *KLM*
Air Pollution Control Program

RE: Policy Memorandum 2012-01
Stage II Vapor Recovery - Enforcement Discretion for New and Modified Gasoline Dispensing Facilities subject to 10 CSR 10-5.220 *Control of Petroleum Liquid Storage, Loading and Transfer*

On May 16, 2012, the U.S. Environmental Protection Agency (EPA) issued a rule allowing states to phase out their Stage II Vapor Recovery Programs. The EPA rule provides that any state previously required to have a Stage II Program may take appropriate action to remove the requirement from its State Implementation Plan (SIP). EPA's action is based on its determination that onboard vapor recovery (ORVR) systems are in widespread use in the national motor vehicle fleet.

EPA's rule does not require a state to terminate its Stage II program. Rather, EPA encourages each state to assess whether, and how, to phase out its Stage II program, considering state-specific information about program effectiveness, the characteristics of the state vehicle fleet, and SIP requirements. If a state decides to terminate its program, it must submit a SIP revision to EPA including an analysis of the emissions impact of eliminating Stage II, a plan to address any resulting emissions increase and revisions to the state's Stage II regulation.

The Department of Natural Resources' Air Pollution Control Program intends to phase out the Stage II program in the St. Louis area and is currently assessing when, and how, this transition will occur. While it is not feasible to allow the decommissioning of Stage II at existing facilities at this time, it is also not reasonable to require new or reconstructed gasoline dispensing facilities to incur the expense of installing Stage II systems while awaiting finalization of the necessary regulatory changes. Therefore, the department will exercise its enforcement discretion to allow new or reconstructed gasoline dispensing facilities to construct without Stage II systems.

Existing facilities that do not meet the criteria below for a new or reconstructed gasoline dispensing facility are required to operate and maintain existing Stage II systems in accordance with Missouri Air Regulation 10 CSR 10-5.220 *Control of Petroleum Liquid Storage, Loading and Transfer*.

For purposes of this letter, a new or reconstructed gasoline dispensing facility is a facility that, after **August 1, 2012**:

- Begins dispensing fuel for the first time; or
- Modifies a facility where the fixed capital costs of the new gasoline dispensing components will exceed fifty percent (50%) of the fixed capital cost of an entirely new gasoline dispensing system. These costs will include only those components directly related to gasoline dispensing and storage.

Any gasoline dispensing facility that removes or discontinues operation of its existing Stage II system in reliance on this enforcement discretion, must decommission its entire existing Stage II system in accordance with all applicable steps listed in the *Petroleum Equipment Institute Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle-Fueling Sites, PE/RP300-09, Section 14, Decommissioning Stage II Vapor Recovery Piping*.

Please be advised that the department's Stage II regulation, 10 CSR 10-5.220, is part of the Missouri SIP and is, therefore, enforceable as a federal requirement. The federal requirement remains in place irrespective of the department's exercise of enforcement discretion. In addition, any final regulation phasing out the Stage II program must be approved by the EPA.

Any facility planning to act under this enforcement discretion must notify the department of their intentions. Once the department confirms the proposed construction fits the definition of new or reconstructed, the facility must still apply for and receive a Vapor Recovery construction permit from the department. Along with the construction permit application, the facility must also sign and submit a statement agreeing to install a MOPETP approved Stage II system should EPA not approve Missouri's SIP revision and require the continuance of the Stage II program. (Example letter attached)

The department is currently working to analyze the implications of various potential changes. We will continue to work with stakeholders as we prepare our SIP demonstration and on any proposed changes to our regulations. We will also submit draft regulations for public comment. Once finalized, we will submit the demonstration and regulations for EPA approval.

If you have any questions, please contact Nicole Eby at (573) 751-6415.

KLM:sfv

Ms. Kyra Moore
c/o Mr. Bill Ruppel
7545 South Lindbergh, Suite 210
St. Louis, MO 63125

RE: Construction of New or Reconstructed Facility

Dear Ms. Moore:

On May 16, 2012, the U.S. Environmental Protection Agency (EPA) issued a rule allowing states to phase out their Stage II Vapor Recovery Programs. The rule provides that any state previously required to have a Stage II Program may take appropriate action to remove the program from its State Implementation Plan (SIP). EPA's action is based on its determination that onboard vapor recovery (ORVR) systems are in widespread use in the national motor vehicle fleet.

While EPA's rule does not require a state to terminate its Stage II program, the Missouri Department of Natural Resources Air Pollution Control Program (APCP) does intend to phase out the program in the St. Louis area and is currently assessing when this transition will be possible. During this transitional phase, the APCP will use enforcement discretion to allow the construction of new or reconstructed gasoline dispensing facilities without Stage II systems.

States must submit and receive EPA approval of a revision to their approved State Implementation Plans before removing Stage II requirements from the regulations. **If EPA ultimately does not approve of removal of the Stage II requirements in the St. Louis non-attainment area, facilities will be required to schedule installation of an approved Stage II system and submit a construction permit for this activity within 3 months of that determination.**

The proposed construction at: _____
Facility Name

Facility Address, City, State, Zip

Meets the definition of a new or reconstructed facility per "*Policy Memo 2012-1 Stage II Vapor Recovery Enforcement Discretion for New and Modified Gasoline Dispensing Facilities subject to 10 CSR 10-5.220*"

By signing and returning this letter, I am indicating that I, as a responsible official for the above facility, am choosing to construct under APCP's enforcement discretion guidance without Stage II Vapor Recovery. I acknowledge that I have read, understand and agree to the terms above.

Signature and Title: _____

Date: _____