



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE  
*Governor*

BOB MARTIN  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

### **ADMINISTRATIVE ORDER NO. 2017-16**

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 by Administrative Order No. 2016-09, signed on October 12, 2016, I directed the Department's Divisions of Air Quality and Air Compliance and Enforcement to exercise their enforcement discretion to allow a gasoline dispensing facility constructed on or after the date of the 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. 7:27-16.1(e)1, (e)2, and (e)4; and

WHEREAS, the New Jersey Department of Environmental Protection (Department) published in the July 3, 2017 New Jersey Register proposed amendments to 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, I signed the adoption of these proposed amendments on October 24, 2017, which adoption document was then submitted to the Office of Administrative Law on October 25, 2017 for publication in the November 20, 2017 New Jersey Register; and

WHEREAS, in accordance with the Air Pollution Control Act, N.J.S.A. 26:2C-8.a, the adopted amendments will be operative on the 60<sup>th</sup> day after I signed the adoption document, which is December 23, 2017; and

WHEREAS, the Department is aware that one or more gasoline dispensing facilities may be interested in beginning to decommission their Stage II vapor recovery equipment (equipment) before the adopted amendments are operative and that, while the Department cannot authorize the decommissioning of the equipment prior to the adopted amendments' operative date, a facility may decide that it is in its best interest to decommission its equipment in accordance with the adopted amendments, and by doing so accomplish the environmental and other benefits the adopted amendments are intended to achieve.

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 before the date of this order to decommission a Stage II vapor recovery system if the decommissioning is performed in accordance with the adopted amendments at N.J.A.C. 7:27-16.3(h). A courtesy copy of the relevant adopted rules is available at [www.nj.gov/dep/aqpp/ao-2017-16-sub-16-rule-text.pdf](http://www.nj.gov/dep/aqpp/ao-2017-16-sub-16-rule-text.pdf)

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: November 9, 2017

/s/ *Bob Martin*  
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Bob Martin  
Commissioner