



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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## M E M O R A N D U M

**TO:** Air & Radiation Management Administration (ARMA) – Air Quality Compliance Program  
Land Management Administration (LMA) – Oil Control Program

**FROM:** Tad Aburn, Director, ARMA  
Horacio Tablada, Director, LMA

**DATE:** March 20, 2014

**SUBJECT:** Stage II Vapor Recovery Systems – Enforcement Discretion Policy

The purpose of this memorandum is to advise compliance staff in the ARMA Air Quality Compliance Program and the LMA Oil Control Program of the Department's enforcement policy as it relates to enforcement of Stage II Vapor Recovery Systems. The Department has adopted a formal enforcement discretion policy regarding requirements for Stage II Vapor Recovery Systems as they apply to newly constructed gasoline dispensing facilities and facilities undergoing significant modification in accordance with this policy. This policy was effective March 6, 2014.

### **Background**

Existing regulations codified in COMAR 26.11.24 require gasoline dispensing facilities in the State to install, certify, maintain, and test Stage II systems. These regulations are a part of Maryland's State Implementation Plan under the federal Clean Air Act. On May 16, 2012, EPA released the final rule that determined vehicle onboard refueling vapor recovery technology (ORVR) would be in widespread use nationally throughout the motor vehicle fleet in June 2013. This EPA action allows states to discontinue the use of Stage II vapor recovery systems at gasoline dispensing facilities, provided that the State is able to demonstrate that the loss of emission reductions associated with the discontinuation of Stage II will be offset through implementation of other strategies.

### Exercise of Enforcement Discretion

Because of the cost associated with the installation of new Stage II systems and the diminishing air quality benefits as the percentage of the Maryland fleet of passenger cars and light duty trucks equipped with ORVR continues to increase, the Department will exercise enforcement discretion to allow *new or modified gasoline dispensing facilities* to be constructed with appropriate new technologies but without Stage II systems. A *new or modified gasoline dispensing facility* is one that on or after March 6, 2014:

- 1) begins dispensing fuel for the first time;
- 2) excavates below a shear valve or tank pad in order to repair or replace its Stage II system or an underground storage tank;
- 3) installs a new dispenser system manufactured without a Stage II system; or
- 4) undergoes a major system modification consisting of the replacement, repair or upgrade of at least 50% of a facility's Stage II vapor recovery system.

A new or modified gasoline dispensing facility that discontinues all or part of its existing Stage II system is not eligible for enforcement discretion under this policy unless the owner or operator of the facility notifies the Department in writing on the attached form that it intends to act in accordance with this policy prior to removing or discontinuing all or part of its existing Stage II system. [The form](#) must be completed as instructed and sent to the appropriate ARMA and LMA programs as indicated.

All existing facilities that are not eligible for enforcement discretion and are currently equipped with Stage II systems must continue to certify, maintain, test, and comply with all Stage II requirements until such time as the Department repeals or otherwise revises existing regulatory requirements through rulemaking.

If you are asked, it is important for the industry to understand that this MDE policy does not protect them from EPA action or citizen lawsuits.

Please direct any questions concerning this Enforcement Discretion Policy to the ARMA Air Quality Compliance Program at 410-537-3231.