


<b>INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT</b>	<b>STATUS:</b> Effective	<b>POLICY NUMBER:</b> Air-036	
<b>AGENCY NONRULE POLICY DOCUMENT</b>  <b>SUBJECT:</b> Stage II Vapor Recovery System for Gasoline Dispensing Facilities in Clark, Floyd, Lake and Porter Counties, Indiana	<b>AUTHORIZED:</b> Thomas W. Easterly, Commissioner		
	<b>SUPERSEDES:</b> New	<b>ISSUING OFFICE(S):</b> Office of Air Quality	
	<b>ORIGINALLY EFFECTIVE:</b> April 12, 2013	<b>RENEWED/REVISED:</b>	

**Disclaimer:** This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under Indiana Code (IC) 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the Indiana Environmental Rules Board, and may be put into effect by IDEM immediately afterward. IDEM will submit the policy to the Indiana Register for publication.

## 1.0 PURPOSE

The purpose of this Nonrule Policy Document (NPD) is to clarify the department’s compliance policy for 326 Indiana Administrative Code (IAC) 8-4-6(c) regarding Stage II Vapor Recovery System (VRS) requirements for gasoline dispensing facilities in Clark, Floyd, Lake, and Porter counties, Indiana, that dispense an average monthly volume of ten thousand (10,000) gallons per month or more, or is an independent small business marketer of gasoline who dispenses an average monthly volume of fifty thousand (50,000) gallons or more of gasoline per month.

Effective May 16, 2012 (77 *Federal Register* 28772), the United States Environmental Protection Agency (U.S. EPA) exercised its authority under Section 202(a)(6) of the federal Clean Air Act (CAA) and waived the requirements for Stage II gasoline vapor recovery at gasoline dispensing facilities located in areas classified as extreme, severe, serious, or moderate nonattainment for the 1-hour ozone standard. This decision was based on the widespread use of Onboard Refueling Vapor Recovery (ORVR) technology on motor vehicles. A Stage II VRS now provides increasingly less air pollution reduction beyond what is provided by ORVR and is not as cost effective as the ORVR technology.

Upon review of the criteria provided by U.S. EPA, IDEM, through this NPD, will exercise its enforcement discretion and will not enforce the requirement to install and operate Stage II VRS equipment for gasoline dispensing facilities in Clark, Floyd, Lake, and Porter counties if they meet the definition in Section 3.0 of this NPD. A rulemaking is being initiated to remove the requirements from existing state rules. Until the rulemaking is completed, this NPD will guide compliance inspections and enforcement activities of the IDEM Office of Air Quality, the IDEM Regional Offices, and gasoline dispensing facilities during the interim period.

## 2.0 SCOPE

This policy applies to any gasoline dispensing facility subject to 326 IAC 8-4-6(c) in Clark, Floyd, Lake, and Porter counties that dispenses an average monthly volume of ten thousand (10,000) gallons of gasoline per month or more; or is an independent small business marketer of gasoline who dispenses an average monthly volume of fifty thousand (50,000) gallons or more of gasoline per month.

### **3.0 SUMMARY**

- 3.1 For the purpose of this NPD and only upon the effective date of this NPD, a new or modified gasoline dispensing facility is defined as a facility that:
  - 3.1.1 Begins dispensing gasoline for the first time;
  - 3.1.2 Excavates below a shear valve or tank pad in order to repair or replace its Stage II VRS or an underground storage tank; or
  - 3.1.3 Replaces fifty percent (50%) or more of its gasoline dispensers.
- 3.2 Upon the effective date of this NPD, IDEM, will exercise its enforcement discretion and will not enforce the requirement to install and operate Stage II VRS equipment for gasoline dispensing facilities in Clark, Floyd, Lake, and Porter counties if they meet the definition in Section 3.1.
- 3.3 Existing gasoline dispensing facilities that do not meet the criteria stated in Section 3.1 are required to maintain and operate existing Stage II VRSs in accordance with 326 IAC 8-4-6(c) until the rule change is complete.
- 3.4 This NPD is in effect until such time that IDEM completes a rule change in regard to this issue.

### **4.0 DEFINITIONS**

The following definitions are solely applicable to this NPD:

- 4.1. "Agency" – The Indiana Department of Environmental Management (IDEM).
- 4.2 "Average monthly volume" – The amount of gasoline dispensed per month from a gasoline dispensing facility based upon a monthly average for a two year period from November 1990 through October 1992, or, if not available, the monthly average for the most recent 12 calendar months. Monthly average shall include only those months when the facility was operating.
- 4.3 "California Air Resources Board (CARB)" - The California Air Resources Board is a part of the California Environmental Protection Agency, an organization which reports directly to the Governor's Office in the Executive Branch of California State Government.
- 4.4 "Clean Air Act (CAA)" [federal] – is the law that defines the United States Environmental Protection Agency's (U.S. EPA) responsibilities for protecting and improving the nation's air quality and the stratospheric ozone layer.
- 4.5 "Facility" – Any;
  - (A) building;
  - (B) structure;
  - (C) installation;
  - (D) operation; or,
  - (E) combination located on contiguous property and under common ownership; that provides for the dispensing of gasoline.
- 4.6 "Gasoline dispensing facility" – Any facility where gasoline is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 946 liters (250 gallons or more).

- 4.7 “Indiana Department of Environmental Management (IDEM)” – An agency of Indiana State Government whose mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial, and government activities vital to a prosperous economy.
- 4.8 “IDEM parties” – As used in Section 5.0 of this NPD, means employees of the Indiana Department of Environmental Management; specifically, the Office of Air Quality.
- 4.9 “Independent small business marketer of gasoline” – A person engaged in the marketing of gasoline who:
- (A) is not a refiner;
  - (B) does not control, is not controlled by, or is not under common control with a refiner;
  - (C) is not otherwise directly or indirectly affiliated with a refiner or a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in this subdivision is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); and
  - (D) receives less than fifty percent (50%) annual income from the marketing of gasoline.
- 4.10 “Motor vehicle” – Any self-propelled vehicle powered by an internal combustion engine, including, but not limited to, the following:
- (A) Automobiles
  - (B) Trucks
  - (C) Motorcycles
- 4.11 “Nonrule policy” - The term assigned by the Indiana Department of Environmental Management (IDEM) to those policies identified in IC 13-14-1-11.5 as any policy that: A) Interprets, supplements, or implements a statute or rule; B) Has not been adopted in compliance with IC 4-22-2; C) Is not intended by IDEM to have the effect of law; and D) Does not apply solely to the internal IDEM organization (is not an Administrative Policy).
- 4.12 “Onboard Refueling Vapor Recovery (ORVR)” – An activated carbon canister installed on the vehicle that collects emissions from the vehicle fuel tank during refueling.
- 4.13 “Owner or operator” – Any person who:
- (A) owns;
  - (B) leases;
  - (C) operates;
  - (D) manages;
  - (E) supervises; or
  - (F) controls, directly or indirectly, a gasoline dispensing facility.
- 4.14 “Stage II Vapor Recovery System” – An example of a Vapor Collection and Control System that limits the discharge to the atmosphere of motor vehicle fuel vapor displaced during the dispensing of motor vehicle fuel into motor vehicle fuel tanks.
- 4.15 “U.S. Environmental Protection Agency (U.S. EPA)” – An agency of the federal government charged with protecting human health and with safeguarding the natural environment: air, water and land.
- 4.16 “Vapor Collection and Control Systems” – Any system certified by the California Air Resources Board (CARB) that limits the discharge to the atmosphere of motor vehicle fuel vapor displaced during the dispensing of motor vehicle fuel into motor vehicle fuel tanks. An example of this type of system is a Stage II vapor recovery system.

## 5.0 ROLES

### 5.1 IDEM parties:

#### A. Office of Air Quality Compliance Inspectors and IDEM Regional Office Compliance Inspectors:

1. Are responsible for compliance inspections and for implementing this NPD at gasoline dispensing facilities subject to 326 IAC 8-4-6(c) currently operating in Clark, Floyd, Lake, and Porter counties, Indiana.
2. Will exercise enforcement discretion and will not enforce the requirement to install Stage II VRS equipment for gasoline dispensing facilities in Clark, Floyd, Lake, and Porter counties, if they meet the definition in Section 3.1

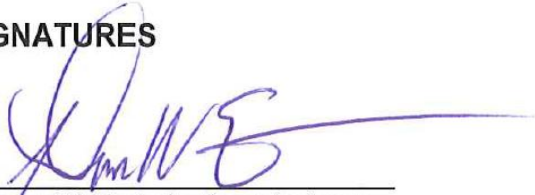
## 6.0 POLICY

- 6.1 IDEM's rule (326 IAC 8-4) contains vapor recovery requirements for gasoline dispensing facilities in Indiana. Subsection 8-4-6(c) requires Stage II VRSs at gasoline dispensing facilities in Clark, Floyd, Lake, and Porter counties, Indiana that dispense an average monthly volume of ten thousand (10,000) gallons of gasoline per month or more; or is an independent small business marketer of gasoline who dispenses an average monthly volume of fifty thousand (50,000) gallons or more of gasoline per month.
- 6.2 IDEM will not enforce the requirements to install Stage II VRSs on gasoline dispensing facilities as specified under Section 3.0 of this NPD for the duration of this NPD or until 326 IAC 8-4-6(c) has been revised to remove the Stage II VRS requirement.
- 6.3 A new or existing modified gasoline dispensing facility that intends to act in accordance with this enforcement discretion shall notify IDEM prior to decommissioning its existing Stage II VRS or installing a new system without Stage II vapor recovery. Notification shall be made to [Stage2notify@idem.in.gov](mailto:Stage2notify@idem.in.gov), or at (317) 233-6865. Please note that proper decommissioning of Stage II equipment is necessary to ensure compliance with Stage I vapor recovery requirements that remain in effect under 326 IAC 8-4-6(b).
- 6.4 This policy will guide compliance inspections and enforcement activities of the IDEM Office of Air Quality, the IDEM Regional Offices, and gasoline dispensing facilities.

## 7.0 REFERENCES

- 7.1. *77 Federal Register* 28772, May 16, 2012
- 7.2 Indiana Administrative Code, 326 IAC 8-4-6, Volatile Organic Compounds Rules, Petroleum Sources, Gasoline Dispensing Facilities
- 7.3 U.S. EPA's guidance "Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measurements," August 7, 2012

**8.0 SIGNATURES**



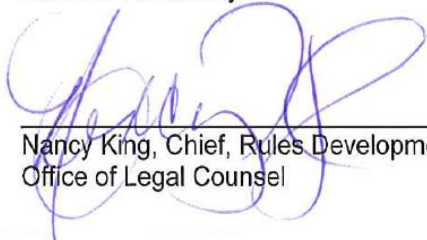
Thomas W. Easterly, Commissioner  
Indiana Department of Environmental Management

1/10/13  
Date



Keith Baugues, Assistant Commissioner  
Office of Air Quality

1/10/13  
Date



Nancy King, Chief, Rules Development Branch  
Office of Legal Counsel

1/10/13  
Date

This policy is consistent with Agency requirements.



Quality Assurance Program, Planning and Assessment  
Indiana Department of Environmental Management

1-10-13  
Date