

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.
GOVERNOR

MARTHA KIRKPATRICK
COMMISSIONER

April 3, 2002

Senator John L. Martin, Co-Chair
Representative Scott W. Cowger, Co-Chair
Members of the Natural Resources Committee
State House Room 437
Augusta, ME 04333

Dear Senator Martin, Representative Cowger, and Committee Members:

Pursuant to 38 M.R.S.A. Section 585-E (6), I am writing to provide a recommendation on an appropriate date for the repeal of Maine's Stage II vapor recovery requirements. The department is required to provide this recommendation to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than April 1, 2002.

Background

The Clean Air Act Amendments of 1990 (CAAA) established wide-ranging requirements for the control of volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions. Section 182(b) of the CAAA requires all moderate nonattainment areas to reduce their VOC emissions by 15% (from a 1990 baseline) by November 15, 1996. In Maine, these requirements, also known as a 15% Rate of Progress Plan, were required in York, Cumberland and Sagadahoc County.

In addition to establishing these control requirements, Section 184 of the CAAA imposes additional control requirements on a uniform basis in both attainment and nonattainment areas throughout the Ozone Transport Region (OTR)¹, regardless of an area's nonattainment status. Section 184(b)(2) requires all areas within the OTR to adopt Stage II vapor recovery controls at gasoline dispensing facilities to capture the emissions from vehicle refueling. An area had the option to adopt an alternative measure(s) identified in the EPA study document "Stage II Comparability Study For The Northeast Ozone Transport Region" (EPA-452/R-94-011) as capable of achieving comparable emission reductions. Following the publication of this study on January 13, 1995, affected states were required to adopt and submit as a revision to the State Implementation Plan (SIP) either a Stage II vapor recovery control program or a comparable measure.

¹ The Ozone Transport Region consists of Maine, New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, Washington, D.C., and northern

AUGUSTA Virginia
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507

Stage II Vapor Recovery in Maine

Maine currently requires Stage II Vapor Recovery Controls on any gasoline dispensing facility located in York, Cumberland, and Sagadahoc counties where annual throughput ever exceeds the initial applicability threshold of 1,000,000 gallons per year. Facilities exceeding this threshold² must install and place into operation an approved Stage II vapor recovery system no later than November 15, 1996. The Stage II program in these three counties was instituted pursuant to 38 M.R.S.A Section 585-E as part of Maine's 15% Rate of Progress Plan, and provided emission reductions of 1.11 tons per summer weekday in 1996.

As the statewide application of Stage II vapor recovery controls in Maine is precluded by 38 MRSA Section 585-E, which prohibits the implementation of Stage II vapor recovery controls beyond the minimal program necessary for satisfaction of the rate of progress requirements in Planning Area 1, Maine has met its Stage II comparability requirements through the use of existing, non-federally-mandated control measures³ in lieu of the statewide application of Stage II vapor recovery controls.

The Repeal of the Stage II Vapor Recovery Requirements in Maine

Last year (2001), the Maine Legislature enacted 38 M.R.S.A. section 585-E(6), which states:

“6. Section repeal. No later than April 1, 2002 the department shall provide to the joint standing committee of the Legislature having jurisdiction over natural resources matters an appropriate date for the repeal of this section.”

This legislation was prompted by two concerns: 1) the increasing use of on-board vapor recovery canisters; and 2) the potential incompatibility between vehicles equipped with onboard vapor recovery canisters and certain types of Stage II vapor recovery systems. Beginning 1998, motor vehicles began to be equipped⁴ with onboard vapor recovery canisters that capture gasoline vapors displaced during the refueling process. Since these canisters serve the same purpose as Stage II vapor recovery systems, as more and more of the Maine vehicle fleet becomes equipped with onboard canisters (through fleet turnover) Stage II vapor recovery becomes redundant. There are also concerns that vehicles equipped with on-board canisters may be incompatible with vacuum-assist Stage II vapor recovery systems (the most common system in Maine). Given this redundancy and potential incompatibility, the repeal of the Stage II vapor recovery program is technically well-justified.

The Department has conferred with the U.S. Environmental Protection Agency (EPA) on this issue, and has been told Maine can repeal its Stage II vapor recovery requirements,

²Approximately 50% of total gasoline throughput are dispensed by facilities exceeding the 1,000,000-gallon threshold.

³The low-RVP gasoline program is the primary measure used to demonstrate Stage II comparability.

⁴Through a phased-in approach.

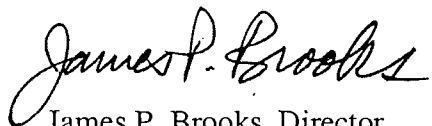
but must substitute additional discretionary control measures⁵ that are not currently included in Maine's State Implementation Plan. Given that on-board vapor recovery is only in a small portion of the vehicle fleet, the reductions from this program are currently insufficient to offset the emissions reductions that would be foregone due to the repeal of the Stage II program. The Department has begun rulemaking on several rules that would satisfy these requirements, and will be undertaking formal rulemaking on them this summer.

While the Department believes that these new rules will provide equivalent (or greater) emission reductions sometime after 2006, it cannot recommend this date for the repeal of the Stage II vapor recovery requirements *at this point in time*. As you may know, the Department is in the process of redesignating York, Cumberland, and Sagadahoc Counties to attainment for ozone, in response to a lawsuit filed against EPA. Redesignation of these counties is critical if we are to avoid being "bumped-up," or redesignated to the next more severe ozone nonattainment designation and the additional planning and control requirements it carries. Part of the redesignation process includes the development of an emissions inventory, and demonstrating that emissions will not exceed this level for a period of 10 years (this is known as a maintenance inventory). Since the Stage II vapor recovery program figures prominently in demonstrating maintenance, we cannot commit to repealing this program before the end of this 10-year maintenance period (2012) until we have promulgated these new rules. To do otherwise would jeopardize the approval of our redesignation request, which would have serious ramifications.

Given this consideration, the Department is proposing to repeal the Stage II vapor recovery requirement no later than December 30, 2012, and will report back to the Joint Standing Committee on Natural Resources no later than April 1, 2003 with a date certain for repeal of the Stage II vapor recovery requirement.

If you should have any questions, please feel free to contact me at 287-2437.

Sincerely,



James P. Brooks, Director
Bureau of Air Quality

⁵ Pursuant to section 110(l) of the CAAA.