



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Air Quality

Draft Final-Form Rulemaking

25 Pa. Code Chapters 121 and 129

Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and Stage II)

Air Quality Technical Advisory Committee
April 8, 2021
Harrisburg, PA

Tom Wolf, Governor

Patrick McDonnell, Secretary

Background: Stage I and Stage II

- There are two technologies for reducing fugitive VOC emissions from refueling at a gas pump:
 - Stage II Vapor Recovery (Stage II) systems, and
 - Onboard Refueling Vapor Recovery (ORVR) systems.
- Gas pumps can be equipped with Stage II systems, while vehicles can be equipped with ORVC.
- Vehicles equipped with ORVR systems are incompatible with some Stage II systems, which lowers the overall control efficiency below that achieved by either technology operating separately.
- DEP's analysis, using EPA's methodology, indicated that continued use of Stage II systems started increasing overall VOC emissions in Pittsburgh in 2021 and in Philadelphia in 2022.

Background: Stage I and Stage II

- The rulemaking includes maintaining several Stage II requirements because they do not impede OPVR.
- The major items that the final-form rulemaking include:
 - Provides for the decommissioning of Stage II equipment
 - Two new leak tests and testing on an annual basis
 - Requires low polluting nozzles and hoses
 - Option to use new technology

Public Comment Period

- The public comment period opened on September 26, 2020 and the three public hearings were held:
 - October 27, Virtual Meeting
 - October 28, Virtual Meeting
 - October 29, Virtual Meeting
- The public comment period closed on November 30, 2020.
- The Independent Regulatory Review Commission (IRRC) comment period closed on December 30, 2020.

Commenters

Six people or organizations commented:

- Five letters were received from people associated with retail gasoline marketing, a company that performs leak testing and an industry association
- One letter sent by IRRC

General Comments

General Comments

Supportive

- Pennsylvania Petroleum Association supported the proposed rulemaking.
- PPA expressed support of overall cost-effectiveness.

Neutral or Adverse

- Federal testing requirements should be included in the rulemaking for all remaining PA counties.
- Leak testers should achieve a level of certification from the Department.
- Enhanced conventional (ECO) nozzles (a specific type of low polluting nozzle) are more expensive, get stuck in vehicles, and will be difficult for consumers to operate and cause them to go to location without ECO nozzles.

Comments Asking for Clarification

- IRRC asked the EQB how uncertified leak testers would be notified of the requirement to be certified with the Department.
- A commenter stated that ECO nozzles could enhance environmental harm by increasing spills. IRRC asked the Board to explain in the Preamble and Regulatory Analysis Form (RAF) of the final regulation how the benefits of ECO nozzles outweigh the negative fiscal and environmental impacts.

Responses to Comments Asking for Clarification

- The rulemaking does not require certification for leak testers. The RAF erroneously included references to certifications, which been removed.
- There are no negative environmental or fiscal impacts due to ECO nozzles. The RAF was updated to state that preliminary studies indicate that ECO nozzles are out-performing their current performance standard. ECO nozzles cost slightly more than conventional nozzles but ECO nozzles control emissions cost-effectively.

Specific Section Comments

- In Section 121.1, IRRC asked that the definition “Stage II vapor recovery system” include the terms “Stage II vacuum assist vapor recovery system” and “Stage II vapor balance vapor recovery system.”
- No clear timeline is included in proposed §§ 129.82a(g) and (h) for facilities that have already decommissioned Stage II exists to begin performing once-in-every-12-month leak testing.
- In 129.61a(o), the commenters stated that the CARB Executive Order required for low permeation hoses and enhanced conventional nozzles be maintained onsite or available from another location within a reasonable amount of time, since multiple gasoline dispensing facilities are owned by large companies.

Public Comments

All public comments can be found in their original form on the Department's [eComment webpage](#) as well as on the IRRC web site (search on IRRC #3266). The Department prepared a Comment and Response document and final-form rulemaking documents that will be submitted to the Environmental Quality Board.

Changes from Proposed to Final-form Rulemaking

The following sections and subsections were revised in response to public comments:

- § 121.1 Definitions.
 - This section has been revised to incorporate IRRC’s recommendation.

- § 129.61a(d) Vapor leak rate monitoring using specified test procedures.
 - This subsection has been revised to provide further clarity regarding testing procedures.

- § 129.61a(o) Record certifying the low permeation hoses and enhanced conventional nozzles.
 - This subsection has been revised to allow for onsite electronic storage of CARB Executive Orders

Changes from Proposed to Final-form Rulemaking

- § 121.1 – Included terms in Stage II vapor recovery system definition: The definition will include Stage II vacuum assist vapor recovery system and Stage II vapor balance vapor recovery system.
- § 129.61a(d)(v) – In response to uncertainty expressed by a commenter as to when leak testing commences, indicated that the vapor leak tests CARB TP-201.1E, CARB TP-201.3, CARB TP-201.3C CARB TP-201.1B and within 1 year of the effective date of the regulation. This change is to give regulated community assurance when to begin leak testing.
- § 129.61a(o) – In response to a comment, the final-form rulemaking allows CARB Executive Orders to be electronically stored for onsite examination in addition to paper records being kept onsite for examination by an inspector.

Anticipated Rulemaking Schedule

- Air Quality Technical Advisory Committee – April 8, 2021
- Small Business Compliance Advisory Committee – April 28, 2021
- Citizens Advisory Council Policy and Regulatory Oversight Committee – April 13, 2021
- Citizens Advisory Council – April 20, 2021
- Environmental Quality Board – June 15, 2021
- Final-Form Rulemaking Promulgated – Before end of 2021



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