



**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)**

**Small Business Compliance Advisory Committee**

**May 19, 2021**

**Harrisburg, PA**

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Background: Stage I and Stage II

- Onboard Refueling Vapor Recovery (ORVR) systems act like a Stage II system on a vehicle. ORVR system captures vapors in a canister to be combusted later.
- Vehicles equipped with ORVR are incompatible with some Stage II systems.
- Under certain conditions, VOC emissions are vented to the atmosphere.
- Section 202(a)(6) of the Clean Air Act (CAA) allows EPA to revise or waive CAA §182(b)(3) Stage II requirements in moderate or above ozone nonattainment areas after EPA determines ORVR is in widespread use.
- EPA has now waived the CAA Stage II requirements for moderate and above nonattainment areas. These waivers enable states to repeal Stage II programs and allow decommissioning.
- DEP has issued two notices of enforcement discretion in August 2012 and November 2016.

# Background: Stage I and Stage II

- DEP's analysis, using EPA's methodology, indicated that Stage II started increasing emissions in Pittsburgh in 2021 and in Philadelphia in 2022.
- Nevertheless, DEP believes that Stage II requirements do achieve emission reductions that were not considered in EPA's widespread use analysis.
- Proposed requirements keep beneficial elements of Stage II to hold fugitive emissions in check.
- The major items 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.

### 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 will be difficult for consumers to operate and cause them to go to location without ECO nozzles.
- ECO nozzles are much more expensive.
- ECO nozzles get stuck in vehicles.

# 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 had references that indicated certification was needed. Those references have been removed from the RAF. Nevertheless, the Department will endeavor to notify all those affected by the final-form rulemaking.
- 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 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 to begin once-in-every-12-month leak testing is included in proposed §§ 129.82a(g) and (h) for facilities that have already decommissioned Stage II.
- 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

# Anticipated Rulemaking Schedule

- Air Quality Technical Advisory Committee – April 8, 2021
- Citizens Advisory Council Policy and Regulatory Oversight Committee – April 13, 2021
- Citizens Advisory Council – April 20, 2021
- Small Business Compliance Advisory Committee – May 19, 2021
- Environmental Quality Board – June 15, 2021
- Final-Form Rulemaking Promulgated – Before end of 2021



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Air Quality

# Questions?

**Chris Trostle**  
**Environmental Group Manager**  
**Mobile Sources Section**  
**717-772-3926**  
**[dtrostle@pa.gov](mailto:dtrostle@pa.gov)**