

## **Comments of the Independent Regulatory Review Commission**



### **Environmental Quality Board Regulation #7-525 (IRRC #3266)**

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

**December 30, 2020**

We submit for your consideration the following comments on the proposed rulemaking published in the September 26, 2020 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (Act) (71 P.S. § 745.5b). Section 5.1(a) of the Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

**1. Section 129.61a. Vapor leak monitoring procedures and other requirements for small gasoline storage tank emission control. – Economic or fiscal impacts; Clarity and lack of ambiguity; Implementation procedures.**

In Subsection (k) (relating to low permeation hoses and enhanced conventional nozzles), the proposed regulation requires an owner or operator in Paragraph (2) to install enhanced conventional nozzles on each gasoline dispenser. Commenters assert that this requirement would have a negative fiscal impact on the owner or operator due to the high cost of these nozzles. Additionally, commenters state that the emission factor calculation for spillage does not account for nozzles with unreliable automatic shutoff mechanisms. We ask the Board to explain in the Preamble and Regulatory Analysis Form (RAF) of the final regulation how the benefits of enhanced conventional nozzles outweigh the negative fiscal and environmental impacts.

Subsection (o) (relating to record certifying the low permeation hoses and enhanced conventional nozzles) requires the owner or operator to maintain onsite at the gasoline dispensing facility a copy of the training schedule and written instructions. For this and other sections which require hard copies to be maintained onsite, would the Board allow electronic copies to meet these requirements? We ask the Board to revise the final form regulation or to explain why it is in the public interest to require hard copies to be maintained onsite.

**2. Section 129.82a. Requirements to decommission a Stage II vapor recovery system. – Clarity and lack of ambiguity; Implementation procedures.**

Under Subsection (g) (relating to retention of responsibilities under Section 129.61) and Subsection (h) (relating to retention of responsibilities under Section 129.61a), an existing decommissioned facility is subject to routine testing once in every 12-month period. Would the

12-month period begin with the effective date of publication of the final regulation or is the testing to take place once each calendar year? We ask the Board to clarify in the final regulation how the regulated community will satisfy this requirement.

### **3. Implementation procedures.**

In response to Regulatory Analysis Form Question #15 regarding who is affected by the regulation, the Board states that “small businesses that test vapor recovery systems exist, but it is impossible to determine their exact number” because “these companies are not required to register with the Department [of Environmental Protection (Department)].” However, the Board states that the regulation would require all testers and installers of vapor recovery equipment to be certified by the Department. How does the Board plan to publicize the certification requirement so that unregistered testers and installers are aware of the certification requirement? We ask the Board to explain in the Preamble and RAF of the final regulation how this requirement will be implemented.

### **4. Miscellaneous clarity.**

In Section 121.1 (relating to definitions), does the term “Stage II vapor recovery system” include the terms “Stage II vacuum assist vapor recovery system” and “Stage II vapor balance vapor recovery system”? If so, we ask the Board to clarify the definition in the final form regulation.