

Control of VOCs from Gasoline Dispensing  
Facilities - Stage II

Comment and Response Document

February 11, 1998

Bureau of Air Quality  
Department of Environmental Protection

The Environmental Quality Board published a notice of public hearing and comment period on May 3, 1997 in the Pennsylvania Bulletin (27 PaB 2239). The public comment period closed on July 3, 1997. A single public hearing was held to receive comments on the proposed rulemaking as follows:

June 3, 1997

Southwest Regional Office  
400 Waterfront Drive  
Pittsburgh, PA

This document summarizes the comments received during the public comment period; there were no comments received at the public hearing. A response to each comment is provided. Please note, the number in parenthesis after each comment is the number of the commentator.

## List of Commentators

1. F. M. Anderson  
Legislative and Regulatory Affairs  
Exxon Company, U.S.A.  
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Houston, TX 77252-2180
  
2. Sarosh Manekshaw, Director  
Environmental Health and Safety  
Pennzoil Place  
P.O. Box 2967  
Houston, TX 77252-2967
  
3. Jason A. Rash, Esq.  
Clean Air Council  
135 South 19<sup>th</sup> Street  
Suite 300  
Philadelphia, PA 19103
  
4. Mr. Robert Nyce, Executive Director  
Independent Regulatory Review Commission  
333 Market Street  
14<sup>th</sup> Floor  
Harrisburg, PA 17101

## Comments and Responses

1.     Comment:     The commentator supports the Stakeholder recommendations and the proposed revisions to Section 129.82. (Commentator 1)

          Response:    No response required.
2.     Comment:     The commentator indicated that the proposed implementation schedule and the throughput cutoff size are not consistent with the federal Clean Air Act requirements, and are in conflict with the Pennsylvania Air Pollution Control Act (APCA). (1)

          Response:    The APCA has been amended. The final regulations are authorized by the APCA and are consistent with the Stakeholders' recommendation.
3.     Comment:     The Department does not have the legal authority to continue its present enforcement policy with respect to Stage II. (1)

          Response:    The Department is exercising enforcement discretion to implement the existing Stage II requirements in a manner consistent with the Stakeholders recommendations. The Department's exercise of enforcement discretion is appropriate under the provisions of the APCA.
4.     Comment:     The Stakeholders did not recommend a di minimis level of 10,000 gallons per month for new or rebuilt facilities, but the proposed rule contains this provision in conflict with the Stakeholder recommendations.(1)

          Response:    Although the Stakeholders did not specifically recommend a di minimis applicability level, the Department considers the 10,000 gallon per month di minimis level to be appropriate.
5.     Comment:     The commentator suggested that the requirements should not make both the owner and operator responsible for the installation and operation of the Stage II systems. The requirements should specify that the operator is responsible for assuring employee training and system maintenance and operation. An owner should not be held responsible unless the owner is also the operator. (2)

          Response:    The Department believes that both the owner and operator should be responsible for the compliance status of an affected facility.

7. Comment: The regulation should be modified to allow maintenance of records off site, with the provision that the records be made available to the Department within a reasonable time. (2)
- Response: For ease and effectiveness of enforcement the Department believes that the appropriate records demonstrating maintenance and compliance aspects should be maintained on the other site.
8. Comment: The proposed regulation lists compliance dates which have expired. (2)
- Response: The compliance dates are consistent with the Stakeholders' recommendation and the implementation dates of the program established in the APCA.
9. Comment: The commentator supports the implementation of Stage II throughout Pennsylvania, not only in the moderate, serious and severe ozone nonattainment areas in the Commonwealth. The commentator indicates that statewide implementation of Stage II will help to protect the public health of citizens as they fuel their cars. (3)
- Response: Because significant areas of the Commonwealth demonstrate attainment of the health related ozone air quality standard, the Department does not believe that statewide implementation of Stage II is appropriate at this time.
10. Comment: The commentator believes that the Commonwealth should have required implementation of Stage II at affected facilities as is required by the existing regulation.(3)
- Response: Stage II was implemented in the Southeast Pennsylvania ozone nonattainment area in accordance with the existing regulations. Implementation of Stage II in other areas was deferred until it could be determined that the program was necessary for attainment of the ozone air quality standard. The Department will now require implementation of Stage II consistent with the recommendations of the Southwest Pennsylvania Ozone Stakeholder Working Group.
11. Comment: The commentator indicated that five years was too long a time period between inspections for Stage II systems. The high rate of use of the systems may cause more rapid deterioration.(3)

- Response: The five-year interval specified in the regulations relates to the completion of back pressure and leak and pressure decay tests. These tests relate primarily to the underground piping system components which are not so prone to damage or deterioration as the nozzles, boots, and aboveground piping. The inspections of these visible components are to be more frequent, and defective equipment is to be removed from service.
12. Comment: The commentator indicated that the proposed provisions of Sections 129.82(d) and (d)(2) which make “owners or operators, or both” responsible for completion of testing of Stage II systems could be confusing. The commentator recommended that the EQB explain and clarify who bears the ultimate responsibility for testing of the systems. (4)
- Response: The Department has removed the testing requirements from the final regulation. Stage II testing requirements are provided for in Section 6.7 of the APCA.
13. Comment: The commentator indicated that the requirements in the proposed Section 129.82(d)(1) for completion of testing “upon installation” could be confusing. The commentator suggested that the EQB clarify whether testing is to be required only on new installations or if the EQB also intended the testing requirements to apply to existing facilities. (4)
- Response: These testing requirements have been removed from the final regulation. Stage II testing requirements are provided for in Section 6.7 of the APCA.
14. Comment: The commentator indicated that the requirements in the proposed Section 129.82(d)(2) specify that testing is to be conducted in accordance with the certification requirements in the EPA’s Stage II enforcement and technical guidance documents. Section 129.82(d)(1)(iv) requires an “air to liquid ratio test.” The EPA guidance does not include an “air to liquid ratio test”. The commentator suggested that the EQB explain how a facility would comply with the testing requirement. (4)
- Response: These testing requirements have been removed from the final regulation. Stage II testing requirements are provided for in Section 6.7 of the APCA.
15. Comment: The commentator indicated that although Section 129.82(d)(2) requires at least 48 hours advance notice of Stage II system testing,

the proposed regulation does not specify who in the Department is to be notified. The commentator suggested that the EQB should clarify in Section 129.82(d)(2) exactly who in the Department is to be given the 48-hours advance notice of Stage II testing. (4)

Response: These testing and notification requirements have been removed from the final regulation. Stage II testing requirements are provided for in Section 6.7 of the APCA.

16. Comment: The commentator indicated that the Section 129.82(d)(3) requires Stage II system retesting upon major system replacement or modification. The commentator indicated that the regulation does not clearly specify what constitutes a major system replacement or modification and what constitutes a minor modification. The commentator requested that the EQB explain how a facility can determine what replacements or modifications would subject the facility to requirements for retesting. (4)

Response: These testing requirements have been removed from the final regulation. Stage II testing requirements are provided for in Section 6.7 of the APCA.