

IRRC Regulation #7-320 (#1836)
ENVIRONMENTAL QUALITY BOARD
Control of VOCs from Gasoline Dispensing Facilities
(Stage II)

Honorable James M. Seif, Chairman

Shirley A. Hartman
Date: 8/4/97



**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
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August 4, 1997

Honorable James M. Seif, Chairman
Environmental Quality Board
16th Floor, 400 Market Street
Harrisburg, PA 17120

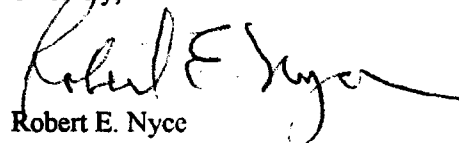
Re: IRRC Regulation #7-320 (#1836)
Control of VOCs from Gasoline Dispensing Facilities (Stage II)

Dear Chairman Seif:

The Independent Regulatory Review Commission (Commission) has enclosed comments on your proposed regulation #7-320. These comments outline areas of concern raised by the Commission. The comments also offer suggestions for your consideration when you prepare the final version of this regulation. These comments should not, however, be viewed as a formal approval or disapproval of the proposed version of this regulation.

If you or your staff have any questions on these comments or desire to meet to discuss them in greater detail, please contact James M. Smith at 783-5439. He has been assigned to review this regulation.

Sincerely,


Robert E. Nyce
Executive Director

REN/lsd

cc: Sharon Freeman
Barbara Sexton
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

ENVIRONMENTAL QUALITY BOARD REGULATION NO. 7-320

CONTROL OF VOCS FROM GASOLINE DISPENSING FACILITIES (STAGE II)

August 4, 1997

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for your consideration the following objections and recommendations. Subsections 5(d) and 5(e) of the Regulatory Review Act (71 P.S. §§ 745.5(d) and (e)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Owners or operators: Clarity.

Sections 129.82(d) and (d)(2) provide testing requirements for "owners or operators, or both" of gasoline dispensing facilities. Since these are not necessarily the same entity, there could be confusion over who the EQB is assigning ultimate responsibility. We recommend that the EQB explain and clarify who bears ultimate responsibility for meeting the testing requirements.

2. Scope of testing requirements: Clarity.

Section 129.82(d)(1) provides a list of tests required *upon installation*. It is not clear whether an existing system would also have to comply with the testing requirements. Further, the requirements of Sections 129.82(d)(1)(i) through (iv) also restate that the tests are required upon installation. Therefore, if the intent of the EQB is to require testing at both existing and new gasoline dispensing facilities, it may be confusing to just require testing "upon installation." We recommend that the EQB review and revise the wording of Section 129.82(d)(1) to match its intent.

3. Compliance with the air to liquid ratio test: Clarity.

Section 129.82(d) requires compliance with functional testing and certification requirements specified 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 document attached to the Regulatory Analysis Form does not include an "air to liquid ratio test." We request an explanation of how a gasoline dispensing facility would comply with this testing requirement.

4. Advance notice: Clarity.

Section 129.82(d)(2) requires at least 48 hours advance notice of testing, but does not state who is to be notified and how. We recommend that the EQB review this provision and clarify who is to be notified of testing and what would be acceptable notice.

5. Major system replacement or modification: Clarity.

Section 129.82(d)(3) requires retesting upon *major* system replacement or modification. It is not clear how a gasoline dispensing facility is to determine what would constitute a major system replacement as opposed to a minor replacement or modification. This could result in a gasoline dispensing facility incurring the cost of retesting for all system replacements or modifications in order to avoid a potential violation. Therefore, we request an explanation of how a gasoline dispensing facility can determine what replacements or modifications will require retesting.

M E M O R A N D U M

To: Fred Taylor
House Environmental Resources
and Energy Committee

Phil DiMartile
Senate Environmental Resources
and Energy Committee

Rich Thomas
House Environmental Resources
and Energy Committee

Ron Ramsey
Senate Environmental Resources
and Energy Committee

From: *JMS* James M. Smith, Regulatory Analyst
Independent Regulatory Review Commission

Date: August 4, 1997

Subject: Commission's Comments
Environmental Quality Board
Regulation # 7-320 (#1836)
Control of VOCs from Gasoline Dispensing Facilities (Stage II)

On Monday, August 4, 1997, the Commission submitted its comments to the Environmental Quality Board on the referenced proposed regulation. A copy is attached for your review.

If you have comments or questions, please contact Jim Smith at 783-5439. Thank you for your time and consideration.

ATTACHMENT