

Executive Summary

Amendments to 25 Pa. Code Chapters 121 and 126 Gasoline Volatility Requirements

Purpose of the Proposed Rulemaking

The proposed rulemaking will amend Chapter 121 (relating to general provisions) and repeal Subchapter C (relating to gasoline volatility requirements) of Chapter 126 (relating to motor vehicle and fuels programs) as codified at §§ 126.301—126.303 (relating to compliant fuel requirements; recordkeeping and reporting; and compliance and test methods) to remove requirements for gasoline with a Reid vapor pressure (RVP) of 7.8 pounds per square inch (psi) or less (low RVP gasoline) to be sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The Chapter 126, Subchapter C requirements were approved by the U.S. Environmental Protection Agency (EPA) as a revision to the Commonwealth's State Implementation Plan (SIP) at 63 FR 31116 on June 8, 1998, as a control measure to attain and maintain the 1-hour Ozone National Ambient Air Quality Standards (NAAQS) in the Pittsburgh-Beaver Valley Area to protect the public health and welfare. The Pittsburgh-Beaver Valley Area includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties.

The Pennsylvania General Assembly passed Act 50 of 2014 (Act of May 14, 2014, P.L. 674, No. 50) which amended the Pennsylvania Air Pollution Control Act to require the Department to “within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements).” The clause was effective May 14, 2014. This rulemaking action proposes to implement Act 50 of 2014, which requires the repeal of Chapter 126, Subchapter C and the submission of a SIP revision to the EPA to remove the regulation from the Commonwealth's SIP.

If published as a final-form regulation in the *Pennsylvania Bulletin*, this proposed rulemaking will be submitted to the EPA for approval as a revision to the SIP.

Repealing the requirements for low RVP gasoline in the Pittsburgh-Beaver Valley Area will likely result in slightly increased emissions of volatile organic compounds (VOCs) into the atmosphere for the next few years. The VOC emission reduction benefits from requiring low RVP gasoline in the Pittsburgh-Beaver Valley Area steadily decline in future years, decreasing from 1.636 tons per day in 2017 to 1.329 tons per day by 2030. Pennsylvania is, therefore, required to ensure that the Non-Interference Clause, Clean Air Act Section 110(l) (42 U.S.C.A. § 7410(l)), is not violated. To this end, the Department plans to identify in a separate action equivalent emission reductions to offset the lost emission reductions.

Summary of the Proposed Rulemaking

The proposed rulemaking will delete §§ 126.301—126.303 and three terms in § 121.1: “compliant fuel,” “importer” and “low RVP gasoline.”

Affected Parties

This proposed rulemaking will apply to gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers, and wholesale purchaser-consumers that operate in or deliver gasoline to the Pittsburgh-Beaver Valley Area. These entities include owners and operators of facilities and infrastructure in the gasoline supply chain, such as bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks, and petroleum pipelines. The Department evaluated several data sources to determine the number and types of affected entities. Based on this research, the Department estimates that there are between 33 and 1,252 entities affected by the proposed rulemaking.

A review of the Senate Co-Sponsorship Memorandum for Senate Bill 1037, dated June 5, 2013, indicates that the legislation enacted as Act 50 of 2014 was proposed to address the price differential between low RVP gasoline and conventional gasoline in the Pittsburgh-Beaver Valley Area, cited by the legislative sponsors as being as much as a 10 to 15 cents per gallon price difference between the two fuels.

Businesses involved in the sale of gasoline, including gas stations, bulk terminals, and wholesalers, may see some economic benefit from the elimination of the requirement to obtain and sell gasoline with an RVP of 7.8 psi or less if the cost savings of blending the specialty fuel are passed down the chain from the refinery and terminal to the gas station. Cost savings at refineries may be as much as 0.5 cents per gallon (cpg). Cost savings for retailers and wholesale purchaser-consumers may be as much as 1.4 – 3.2 cpg. Cost savings for state and local government and for public consumers may be as much as 1.6 – 9.2 cpg. The consumer may or may not see a cost savings at the pump. Businesses involved in gasoline transport and storage are unlikely to see much impact, if any, as the type of gasoline being transported does not directly affect the business operation. Recordkeeping requirements for all affected entities may be reduced or simplified since the businesses will not be required to document the transfer of gasoline with an RVP of 7.8 psi.

Advisory Groups

The Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) were briefed on the proposed rulemaking on December 10, 2015, and February 17, 2016, respectively. AQTAC voted 15-5-0 and SBCAC voted unanimously to concur with DEP’s recommendation to move the proposed rulemaking forward to the Environmental Quality Board (EQB) for consideration. In addition, the proposed rulemaking was presented to the Citizens Advisory Council (CAC) Policy and Regulatory Oversight Committee on March 2, 2016. On the recommendation of the Policy and Regulatory Oversight

Committee, on March 15, 2016, the CAC concurred with DEP's recommendation to forward the proposed rulemaking to the EQB.

Public Comments and Board Hearings

The Department recommends a 60-day public comment period on the proposed rulemaking and an opportunity for three public hearings at DEP regional offices in Norristown, Harrisburg, and Pittsburgh, PA.