

**Gasoline Volatility Requirements
Comment and Response Document**

**April 9, 1999
Bureau of Air Quality**

Comment/Response on Pittsburgh Fuels Rule as Revised,
Proposed September 26, 1998
Public Comment Period Closed December 2, 1998

List of Commentators

Requested Final Rulemaking

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|--|---|
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Numbers in parentheses after each comment refer to the commentator as listed above.

Comment 1:

APIP supports the move to require all gasoline sold in the Pittsburgh area to comply with a Reid vapor pressure (RVP) standard of 7.8 pounds per square inch (psi). (*Commentator 1*)

Response:

The Department appreciates the support of the petroleum industry for this rule change.

Comment 2:

The commentators believe that requiring facilities to keep records on-site for a period of two years (as proposed in Section 126.302(c)) would impose additional and unnecessary recordkeeping costs on the regulated industry. Commentators 1, 2, and 3 request that Section 126.302(c) be changed to allow records for retail facilities to be stored elsewhere (e.g., a district office). These records could be provided when requested with a short lead-time. Commentator 3 suggests a 24-hour lead-time.

Commentator 4 proposes that the regulation be amended to require that records be kept on-site only during the current ozone season, and that records be retained after that at a designated centralized location for the remainder of the two-year retention period. (*Commentators 1, 2, 3, and 4*)

Response:

While the Department understands that there may be space limitations at some facilities, the requirement to maintain records on-site at all points in the distribution chain is essential for enforcement of the program. When an inspector is conducting an assessment of compliance at any facility subject to this rule, all information necessary to make that evaluation must be available at the time of the inspection. A lapse in time between an inspection and the receipt of pertinent records would seriously hinder the effectiveness of the program, especially when a violation of the volatility standard is discovered.

In addition, conducting unannounced inspections of regulated facilities is essential to the integrity of the program. Providing facilities with advance notice of an inspection would clearly undermine this capability. Therefore, to retain the ability to conduct effective inspections, the Department has not made the suggested change of Commentators 1, 2, and 3 to Section 126.302(c).

However, the Department agrees with Commentator 4 that the requirement to keep records on-site for a period of two years, as proposed in Section 126.302(c), could place unnecessary burdens on retail facilities that have limited space. The Department does not agree, however, that the on-site recordkeeping requirement places unnecessary burdens on every point in the distribution network. The Department, therefore, amends Section 126.302 to allow retail stations only to keep the required records on-site during the current compliance period (June 1 through September 15 each year) and move them to a designated centralized location for the remainder of the two-year retention period. All other entities in the distribution network shall keep the records on-site for the specified two-year period.

Comment 3:

APIP believes it is unnecessary to require terminals to be held to a compliance date of May 1 for low RVP fuel. This early date results in additional cost without real benefit. APIP recommends the terminal compliance date be changed to May 15. This will provide more than adequate time to ensure all retail stations are “turned over” to 7.8 psi RVP rule by June 1. (*Commentator 1*)

Response:

The program start and end dates were not proposed to be changed because the Board believes that the proposed dates are appropriate.

When a proposed clean fuels program for the Pittsburgh area was originally published on May 3, 1997, the program was set to begin on May 1 at the terminal level and June 1 at the retail level, and run through September 30. The Department received eight separate comments (including from Commentator 1) detailing the importance of setting the compliance dates so as to be consistent with the dates in the federal summertime volatility program – May 1 start date at the terminal level, June 1 start date at retail stations; running through September 15. The Department agreed with the need for consistency with the federal volatility program, and the rule was revised accordingly. The Department does not believe it is appropriate to change the terminal compliance date to May 15 in light of the number of comments received in response to the May 3, 1997 proposal urging consistency with dates of the federal program; furthermore, it is likely that members of the public and the regulated community did not comment again on this issue since the program start and end dates were not proposed to be changed.

In addition, the May 1 terminal compliance date does have real benefit because it ensures that all gasoline outlets have sufficient lead-time to dispense compliant fuel.

Comment 4:

Although no changes to the start and end dates in Section 126.301 were proposed, Exxon believes that there is a possibility the May 1 compliance date for terminals may be changed to May 31. Exxon would not support such a change. State fuel rules in Maryland, New Jersey, and Allegheny County in Pennsylvania all require terminals to be in compliance by May 1. The only date change Exxon would support for terminal compliance would be May 15.
(Commentator 3)

Response:

The program start and end dates were not proposed to be changed because the Department believes that the proposed dates are appropriate. As stated in the response to Comment 3, the Department has not changed the compliance date for terminals. It remains May 1.

Comment 5:

The requirement to have gasoline with an RVP of 7.8 psi at the terminal level by May 1 contradicts the federal requirement (detailed in 55 *Fed. Reg.* 23658) to have 9.0 psi RVP gasoline at terminals by the same date. The federal summertime fuel volatility rule states that the entire country is to receive 9.0 psi RVP gasoline during May. Pennsylvania has not demonstrated in its State Implementation Plan the need for an RVP level in May that is more stringent than the federal standard in order to achieve the national ambient air quality standard for ozone. Unusual supply disruptions may occur if Pennsylvania's program dates are not brought in line with the federal program. Amoco recommends that Pennsylvania change its rule so that terminals are required to have 9.0 psi gasoline on May 1 as required by federal law, as opposed to the 7.8 psi requirement that is proposed. This change will not affect the requirement to have gasoline meeting the 7.8 psi specification at retail stations by June 1. (Commentator 2)

Response:

The program start and end dates were not proposed to be changed because the Board believes that the proposed dates are appropriate.

Under Section 211(c)(4)(A) of the Clean Air Act, states are preempted from prescribing a control regarding a fuel characteristic that is not identical to the federal requirement. However, under Section 211(c)(4)(C), the Environment Protection Agency is authorized to grant a state a waiver of this preemption if the state control is necessary to achieve a National Ambient Air Quality Standard (NAAQS).

On December 3, 1997, the Commonwealth submitted to EPA a formal revision to its state implementation plan (SIP) for ozone. This SIP contained a clean fuels program for the Pittsburgh ozone nonattainment area that was published as a final rule in the *Pennsylvania Bulletin* on November 1, 1997. On April 17, 1998, the Commonwealth sent a letter to EPA outlining proposed revisions to the December 3, 1997 SIP submission by deleting the provisions related to the use of reformulated gasoline. The April 1998 SIP revision imposes a RVP limit of 7.8 psi on all gasoline marketed in the Pittsburgh ozone nonattainment area and applies to the sale of gasoline between May 1 and September 15 at the terminal level and between June 1 and September 15 at the retail level.

On June 8, 1998 EPA published a direct final rule in the *Federal Register* proposing to grant Pennsylvania the necessary waiver under the Clean Air Act. No negative comments were received, and a Section 211(c)(4)(C) waiver was granted to Pennsylvania effective on July 23, 1998. This waiver allows the use of a fuel with an RVP standard more stringent than the federal requirement in the Pittsburgh ozone nonattainment area. EPA granted this waiver because, "Pennsylvania has submitted to EPA data and analysis to support a finding under Section 211(c)(4)(C) that its low RVP requirement is necessary for the Pittsburgh nonattainment area to achieve the ozone NAAQS."

This same EPA action finalized approval of the Pennsylvania low RVP program distribution schedule that requires terminals to be fully converted to 7.8 RVP fuel by May 1 and retail and wholesale-purchaser consumer facilities to be fully converted to 7.8 RVP fuel by June 1. The direct final rule states "because the state has satisfied all the program description elements, EPA has determined the Commonwealth's low RVP program for the Pittsburgh area meets all applicable federal requirements for approval as a SIP revision." Consequently, this approved SIP revision is now a federal law. Since this SIP revision was approved by EPA, it is not subject to review at the state level as the commentator suggests.

It is not necessary to justify the need for a more stringent requirement on a month-by-month basis, as the commentator suggests. Rather, the need for a particular program is justified from the perspective of an entire ozone season.

The comment that unusual supply disruptions may occur if this suggested change is not made is unwarranted. Low RVP fuel was required in the Pittsburgh ozone nonattainment area at the terminal level beginning on May 1, 1998 and at retail stations by June 1, 1998 and no unusual supply or price disruptions were reported. The program ran smoothly by all accounts, and the compliance rate was extremely high. Altering the requirement for terminal compliance may force EPA to reconsider both the waiver and the program approvals which could place the entire program, and the entire attainment plan for the Pittsburgh nonattainment area in jeopardy. The lack of incident or reported difficulty achieving compliance with the requirement to have gasoline with a vapor pressure of 7.8 psi at terminals by May 1 indicates that there is no justification for taking that risk.

If, as a result of the more stringent volatility requirement in May, gasoline with an RVP of 7.8 psi reaches retail stations prior to June 1, then more protection from exceedances of the health-based ozone standard will be afforded to the citizens of southwestern Pennsylvania. As this is a positive environmental and health benefit, the Department will not revise the terminal compliance requirement as suggested.