

Executive Summary

Amendments to 25 Pa. Code Chapters 121 and 126

Employer Trip Reduction: Repeal

Purpose and Summary of the Final-Omitted Rulemaking

The final-omitted rulemaking rescinds the employer trip reduction (ETR) requirements of Chapter 126, Subchapter B, as set forth in §§ 126.201 – 126.208 (relating to employer trip reduction); Chapter 126, Appendix A (relating to target areas for the Philadelphia severe ozone nonattainment area); and deletes 13 supporting terms from § 121.1 (relating to definitions). These requirements and terms were approved as final rulemaking by the Environmental Quality Board (Board) on September 21, 1993, and published at 24 Pa.B. 693 (January 29, 1994).

As required under the Clean Air Act (CAA), the Commonwealth's final rulemaking adopted provisions requiring employers of 100 or more employees located in "severe" ozone nonattainment areas to develop and implement a program to reduce work-related vehicle trips by employees. At the time the final-form rulemaking was published, the Pennsylvania portion (Bucks, Chester, Delaware, Montgomery and Philadelphia counties) of the Philadelphia Consolidated Metropolitan Statistical Area (CMSA) was the only area of the Commonwealth classified as a severe ozone nonattainment area.

The Commonwealth submitted its final-form ETR regulation to the United States Environmental Protection Agency (EPA) as a State Implementation Plan (SIP) revision on May 2, 1994. The EPA has not acted upon the ETR SIP submittal.

In November 1994, the Pennsylvania General Assembly passed Act 95 of 1994, which amended the Commonwealth's Vehicle Code to require the Governor to suspend implementation and enforcement of the ETR program until March 31, 1995, or until an alternative program with equivalent emission reductions was developed. Act 95 of 1994 also stipulated that "the employer trip reduction program or an alternative program shall not be required if the area classified as severe ozone nonattainment is reclassified as a serious ozone nonattainment area by the Environmental Protection Agency."

In 1995, the Department developed a policy document (Doc #271-5000-001, published February 1996) explaining the actions the Department took in response to Pennsylvania's Act 95 of 1994. In addition, the policy document stated that the Department would repeal the ETR regulation if the CAA was amended to make the program voluntary.

In 1995, Congress amended the CAA making the program voluntary. Additionally, the Philadelphia CMSA is now classified as a "moderate" nonattainment area, which is a lesser classification than "severe" or "serious" under the CAA's classification system that includes "extreme," "severe," "serious," "moderate" and "marginal" areas, in that order.

The repeal of the provisions in Subchapter B and Appendix A, and the related definitions, does not negatively affect the environmental air quality of the Commonwealth. The ETR regulation was never implemented and the Commonwealth did not claim emission reduction credits for it in SIP revisions.

Affected Parties

The ETR regulation only applied to employers of 100 or more employees located in the Pennsylvania portion of the Philadelphia CMSA. The regulation was never implemented; therefore, no compliance was required. There will be no costs or savings to the regulated community.

Advisory Groups

The rulemaking was discussed with the Air Quality Technical Advisory Committee (AQTAC) on June 23, 2011. The AQTAC voted 11-2-2 to concur with the Department's recommendation to forward the rulemaking to the Environmental Quality Board (Board). The rulemaking was discussed with the Citizens Advisory Council (CAC) Air Committee on October 19, 2011. The CAC Air Committee had no concerns. On the recommendation of the Air Committee, on November 15, 2011, the CAC voted to concur with proceeding to the Board.

Public Comments and Board Hearings

Notice of proposed rulemaking is omitted under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL). Omission of notice of proposed rulemaking is appropriate because the notice of proposed rulemaking procedure specified in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) is, in this instance, impracticable, unnecessary and contrary to the public interest. Commonwealth legislation suspended implementation of the ETR program and nullified it once the nonattainment area was reclassified to "moderate" nonattainment. Further, Congress amended the CAA to make the program optional. The regulation was never implemented and is not part of the Commonwealth's approved SIP.