

Executive Summary

Amendments to 25 Pa. Code Chapters 121, 123 and 139

Commercial Fuel Oil Sulfur Limits for Combustion Units

Purpose and Background of the Final Rulemaking

The Department of Environmental Protection (Department) recommends final-form amendments to Chapters 121, 123 and 139 (relating to general provisions; standards for contaminants; and sampling and testing) for consideration by the Environmental Quality Board (Board). The purpose of this final rulemaking is to amend § 123.22 (relating to combustion units) to lower the allowable sulfur content limits of commercial fuel oils used in oil-burning combustion units in this Commonwealth and to replace the existing geographic area-specific sulfur content limits for commercial fuel oils with a statewide sulfur limit. Combustion of sulfur-containing commercial fuel oils releases sulfur dioxide (SO₂) emissions, which contribute to the formation of regional haze and fine particulate matter (PM_{2.5}), both of which are serious public welfare and human health threats. Emissions of nitrogen oxides, which contribute to unhealthy levels of PM_{2.5} and ground-level ozone, and of carbon dioxide, a greenhouse gas, should also decrease due to furnace and boiler combustion efficiency improvements. This final-form control measure is an important part of the Commonwealth's efforts to meet the reasonable progress goals for reducing regional haze in Class I areas that may be affected by emissions from sources in the Commonwealth. States with Class I areas affected by emissions from the Commonwealth reached reasonable progress goals in consultation with the Commonwealth and other member states of the Mid-Atlantic/Northeast Visibility Union (MANE-VU). The annual SO₂ emission reduction benefits in this Commonwealth would be approximately 25,000 tons. If published in the *Pennsylvania Bulletin* as a final rulemaking, the regulation will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as a revision to the State Implementation Plan.

Summary of Final Rulemaking

The final rulemaking amends § 123.22 to lower the allowable sulfur content limits of commercial fuel oils, replace the existing area-specific sulfur content limits for commercial fuel oils with a statewide sulfur content limit and add provisions for sampling, testing, recordkeeping and reporting; revises the sampling and testing requirements in Chapter 139; and adds two new terms and amends eight existing terms in § 121.1 (relating to definitions) to provide clarity and support for the amendments to Chapter 123.

Final-form amendments to § 123.22(a)-(e) reduce the maximum commercial fuel oil sulfur limit in each area to 500 parts per million (ppm) sulfur for Number (No.) 2 and lighter commercial fuel oils, to 2500 ppm sulfur for No. 4 commercial fuel oil and to 5000 ppm sulfur for Nos. 5, 6 and heavier commercial fuel oils beginning July 1, 2016. The final rulemaking authorizes the Department to temporarily suspend or modify the sulfur content limits, if supply of compliant fuel oil in an air basin (or air basins) or a particular geographic area (for nonair basins) is reasonably unavailable.

Final-form § 123.22(f) establishes sampling and testing requirements for the refinery to ensure the maximum allowable sulfur content limits of the commercial fuel oil are being met. The final

rulemaking requires that these sampling and testing requirements be followed by persons, other than the ultimate consumer, accepting a shipment of commercial fuel oil if the refinery does not provide the necessary records.

Final-form § 123.22(g) establishes recordkeeping and reporting provisions applicable to all parties in the manufacturing and distribution chain for commercial fuel oil from the refinery owner or operator to sale or transfer to the ultimate consumer. There are no recordkeeping or reporting requirements for the ultimate consumer.

Final-form § 123.22(g)(1)-(4) identifies the information to be shown on the record transferred with each shipment and lists the specific responsibilities of persons subject to the rulemaking.

Final-form § 123.22(g)(5) specifically exempts the ultimate consumer who is a private resident from the requirement to maintain records.

Final-form amendments to § 139.4 (relating to references) update six of the applicable sulfur method references and add two new methods.

Affected Parties

The provisions apply to the owner or operator of an affected refinery, pipeline, terminal, carrier, distributor or retail outlet that produces, conveys or stores the affected commercial fuel oil in or into this Commonwealth beginning July 1, 2016. There are four refineries, 120 terminals and 737 distributors of petroleum products in this Commonwealth. However, not all of these operations may handle commercial fuel oil. The ultimate consumer of commercial fuel oil would be required to buy compliant fuel beginning July 1, 2016. The final-form sampling and testing requirements for refineries and terminals, and recordkeeping and reporting requirements, are consistent with current industry practices and should not create a burden on the regulated community.

Advisory Groups

An advance notice of final rulemaking (ANFR) was discussed with the Air Quality Technical Advisory Committee (AQTAC, Committee) at its June 14, 2012, meeting. The final rulemaking was discussed with the AQTAC on September 12, 2012. The Committee voted to concur with the Department's recommendation to move the final rulemaking to the Board. In addition, the final rulemaking was discussed with the Citizens Advisory Council at its September 18, 2012, meeting. The advanced notice of final rulemaking was discussed with the Small Business Compliance Advisory Committee on July 25, 2012.

Public Comments and Board Hearings

The Board approved publication of the proposed rulemaking at its meeting of July 13, 2010. The proposed rulemaking was published in the *Pennsylvania Bulletin* on September 25, 2010, with a 65-day public comment period (40 *Pa.B.* 5456). Three public hearings were held on October 26, 27 and 28, 2010, in Harrisburg, Cranberry Township (Butler County) and Norristown, PA, respectively. The public comment period closed on November 29, 2010.

As noted above, the Department opened an ANFR for comment from June 23, 2012, to July 23, 2012 (42 *PaB.* 3596), in order to provide a 30-day opportunity for review and comment on the changes from proposed to final rulemaking.