



Proposed Rulemaking 25 Pa. Code Chapter 121 and Chapter 126, Subchapter C

Repeal of Gasoline Volatility Requirements

Environmental Quality Board Meeting
October 18, 2016

▶ Background of Chapter 126, Subchapter C

- In 1995, a violation of the 1-hour Ozone National Ambient Air Quality Standard (NAAQS) occurred in the Pittsburgh-Beaver Valley (PBV) Area: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties.
- The Gasoline Volatility Requirements regulation (Chapter 126, Subchapter C) was developed and implemented as a strategy to attain the 1-hour Ozone NAAQS in the PBV Area.
- Chapter 126, Subchapter C was promulgated at 27 Pa.B. 5601 on November 1, 1997.
- Subchapter C was 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.
- Currently PBV is attaining the 1-hour Ozone NAAQS and the 2008 8-hour Ozone NAAQS.

Provisions of Proposed Rulemaking

- DEP proposes to repeal Chapter 126, Subchapter C, in its entirety, including:
 - § 126.301 – Compliant fuel requirement
 - § 126.302 – Recordkeeping and reporting
 - § 126.303 – Compliance and test methods
- DEP also proposes to repeal three terms in § 121.1 associated with Subchapter C:
 - Compliant fuel
 - Importer
 - Low RVP gasoline

Basis for Proposed Rulemaking

- Legislative mandate of Act 50 of 2014 (Act of May 14, 2014, P.L. 674, No. 50) amended the Pennsylvania Air Pollution Control Act to require DEP to:
 - Repeal Subchapter C from 25 *Pa Code* Chapter 126 (25 *Pa Code* §§ 126.301—126.303).
 - Initiate the process of amending the SIP.
- If published as a final-form regulation, the final rulemaking will be submitted to the EPA for approval as a revision to the SIP.

Applicability

- Certain entities that operate in or deliver gasoline to the PBV Area between May 1 and September 15 (June 1 for retailers and wholesale purchaser-consumers), will be affected, including:
 - gasoline refiners
 - importers
 - distributors
 - resellers
 - terminal owners and operators
 - carriers
 - retailers
 - wholesale purchaser-consumers
- DEP estimates that up to 1,252 entities could be affected by the proposed rulemaking.

Economic Impact

- Cost savings for affected entities may be as much as:
 - 0.5 cents per gallon (cpg) for refiners
 - 1.4–3.2 cpg for retailers and wholesale purchaser-consumers
 - 1.6–9.2 cpg for state and local governments and for public consumers
- Little to no economic impact on businesses involved in gasoline transport and storage.
- Estimated annual cost savings from \$83,337 (0.5 cpg for refineries) to \$1,533,393 (9.2 cpg for consumers) during the summer months.

Compliance Impact

- There are no projected reporting, recordkeeping, or other administrative costs required for compliance with the proposed rulemaking, as the proposal is a repeal of Chapter 126, Subchapter C.
- Recordkeeping and reporting requirements for all affected entities may be reduced or simplified since the businesses will not be required to separately document the transfer of gasoline with an RVP of 7.8 psi.
- The repeal of Subchapter C and revision of the PA SIP will result in the RVP requirements in the PBV Area reverting to the federal gasoline volatility requirements (42 U.S.C.A. 7545(h)).

Environmental Impact

- Chapter 126, Subchapter C, has diminishing emission reduction benefits in future years, approaching zero by 2030.

Scenarios	Emissions					
	2017		2025		2030	
	VOC (t/d)	NOx (t/d)	VOC (t/d)	NOx (t/d)	VOC (t/d)	NOx (t/d)
Existing:						
RVP 7.8 with 10% Ethanol & Sulfur 10	25.477	48.170	13.867	22.483	10.077	15.677
RVP 10 with 10% Ethanol & Sulfur 10	25.899	48.524	13.931	22.533	10.107	15.685
Total Low-RVP Program Benefits	0.422	0.354	0.064	0.051	0.030	0.007

- If published as final-form rulemaking, the proposed rulemaking will result in small increases in VOC and NO_x emissions.

SIP Revision

- DEP must comply with the Non-Interference Clause, Clean Air Act (CAA) Section 110(l), also known as the anti-backsliding provision, by demonstrating in a SIP revision that the proposed changes to an emission reduction program will not interfere with any applicable requirement concerning attainment of a NAAQS, reasonable further progress in attaining a NAAQS, or any other applicable requirement of the CAA.
- DEP plans to do this by identifying equivalent emission reductions to offset the modeled increases of emissions that would result from the repeal of the low-RVP gasoline regulation.

Concurrent Actions

- Additionally, the Department intends to rescind DEP Policy Document - 273-4000-008, “Policy for Sampling and Determination of Compliance with Low RVP Gasoline Requirements in the Pittsburgh-Beaver Valley Ozone Non-attainment Area,” which applies specifically to the implementation of Chapter 126, Subchapter C.
- <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-50309/273-4000-008.pdf>

Advisory Committee Review

The following committees voted to concur with DEP's recommendation to move the proposed rulemaking to the EQB for consideration:

- Air Quality Technical Advisory Committee (AQTAC)
– December 10, 2015; voted 15-5-0.
- Small Business Compliance Advisory Committee
– February 17, 2016; unanimously.
- Citizens Advisory Council – March 15, 2016.

Advisory Committee Comments

- DEP received adverse comments from several AQTAC members. Among the five AQTAC members opposed to forwarding the proposed rulemaking to the EQB, the following concerns were expressed:
 - Loss of emission reduction benefits as a result of the repeal
 - How the emission reduction benefits were calculated
 - The process DEP will use to demonstrate continued compliance with the federal NAAQS through the use of commensurate emission reductions.
- DEP will address these concerns in the non-interference demonstration portion of the SIP revision currently under development.

DEP's Recommended Public Participation Process

- A 60-day public comment period is recommended.
- Public hearings in Pittsburgh, Harrisburg, and Norristown.



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