



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Air Quality

Final Rulemaking

25 Pa. Code Chapter 121 and

Chapter 126, Subchapter C

Amendment of Gasoline Volatility Requirements

Environmental Quality Board Meeting

December 12, 2017

Purpose of Final Rulemaking

- The purpose of the final rulemaking is to comply with Act 50 of 2014 (Act of May 14, 2014, P.L. 674, No. 50).
- This act required DEP to:
 - Initiate process of amending the State Implementation Plan (SIP) to remove the low Reid Vapor Pressure (RVP) requirements in the Pittsburgh-Beaver Valley (PBV) Area.
 - Upon EPA's approval of a SIP revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions, repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements).

Basis of the Final Rulemaking

- The final-form rulemaking to amend Ch. 126, Subch. C is consistent with the legislative mandate of Act 50 of 2014.
- The final-form rulemaking is needed in order to obtain EPA approval of a SIP revision to remove Ch. 126, Subch. C as a Federally enforceable control measure in the Commonwealth's SIP.

Applicability

- Various 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.
- DEP estimates that up to 1,252 entities in PA could be affected by the final-form rulemaking.
- As many as 84% of the entities identified from all sources may be small businesses.
- Entities outside of PA may also be affected, if they are involved in supplying or distributing gasoline in the PBV Area.

Federal and Other State Rules

- Upon the effective date of approval by the EPA of the removal, suspension, or replacement of Ch. 126, Subch. C as part of the Commonwealth's SIP, the final-form rulemaking amendment to § 126.301 will result in the RVP requirements reverting to the Federal gasoline volatility requirements in the Clean Air Act (CAA) (42 U.S.C. § 7545(h)). At that point, Ch. 126, Subch. C will no longer be applicable to the PBV Area.
- New York, Ohio, West Virginia, Virginia, Maryland, Delaware, and New Jersey do not require low RVP gasoline.

Environmental Impact

- The final-form rulemaking, upon EPA approval of the Non-Interference Demonstration (NID) SIP revision, will result in small increases in VOC and NO_x emissions, that are expected to be offset by commensurate emission reductions.

	2017		2025		2030	
	VOC (t/d)	NO _x (t/d)	VOC (t/d)	NO _x (t/d)	VOC (t/d)	NO _x (t/d)
Regional Mobile Source Emissions - 7.8 RVP with 10% Ethanol & 10 ppb Sulfur	46.577	66.717	33.060	35.858	29.765	28.220
Regional Mobile Source Emissions - 10 RVP with 10% Ethanol & 10 ppb Sulfur	48.213	67.071	34.371	35.909	31.094	28.227
Low-RVP Program Benefits - 7.8 RVP Compared with 10.0 RVP	1.636	0.354	1.311	0.051	1.329	0.007

Economic Impact

- Upon approval of the NID SIP revision, affected entities may see cost savings from the repeal of Ch. 126, Subch. C, of 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.
- Estimated annual cost savings during the summer months (May or June through September) are:
 - As much as \$1,760,000 for refiners.
 - From \$4,928,000 to \$11,264,000 for retailers and wholesale purchaser-consumers.
 - From \$5,632,000 to \$32,384,000 for the ultimate consumers.

Compliance Impact

- No compliance impacts are anticipated prior to EPA approving the NID SIP revision.
- No reporting, recordkeeping, or other administrative costs are expected to be necessary for compliance with the final-form rulemaking.
- The final-form rulemaking will result in simplified recordkeeping and reporting requirements for all affected entities, after approval by EPA of the NID SIP revision.
- DEP will respond to questions that affected facilities may have about transitioning from 7.8 pounds per square inch (psi) RVP gasoline to 9.0 or 10.0 psi RVP gasoline through DEP's ongoing compliance assistance program.

Public Participation Process

- Notice of the proposed rulemaking was published in the *Pennsylvania Bulletin* on February 25, 2017 (47 Pa.B 1157) and the public comment period ended on May 1, 2017.
- Public hearings were held on March 28, 29, and 30, 2017, in Pittsburgh, Norristown, and Harrisburg, respectively.
- No testimony was received at the public hearings.
- Written comments were received from members of the public, the regulated industry, members of the Pennsylvania House of Representatives, and the Independent Regulatory Review Commission (IRRC).

Commentators

- The public.
 - Generally supportive of removing the low RVP fuel requirements from the PBV Area.
 - Believed this action will result in cost savings for consumers.
 - Commented that the adverse impact on air quality will be minimal.
- Regulated industry.
 - Identified errors in DEP's assumptions of the economic impact on transporting or storing low RVP fuel and the total fuel consumption in the PBV Area in the summer months.
- PA House of Representatives.
 - 20 Representatives stated that DEP continues to carry out the legislature's directive from Act 50 of 2014 with the proposed rulemaking.

IRRC Comments

- IRRC submitted comments to EQB on May 31, 2017.
 - Commented that the Board’s plan for implementation of Act 50 appears to conflict with the legislative directive to promulgate the required regulations after approval of revisions to the Commonwealth’s SIP by EPA.
 - Asked if the health, safety, and welfare of the citizens of the Commonwealth would be adequately protected if the proposal was published as a final-form rulemaking and the EPA did not approve revisions to the Commonwealth’s SIP.
 - Requested that the Board provide an explanation in the Preamble of the final-form rulemaking to explain its implementation plan and why the Board believes the plan is consistent with Act 50.

Provisions of Final Rulemaking

- The final-form regulation amends the existing regulation by adding § 126.301(d) which reads as follows.
 - “This subchapter will no longer be applicable to the Pittsburgh-Beaver Valley Area upon the effective date of approval by the EPA of the removal, suspension or replacement of this subchapter as a part of the Commonwealth’s State Implementation Plan.”
- DEP is taking this approach rather than repealing Ch. 126, Subch. C and related definitions in Ch. 121 prior to the NID SIP approval.

Changes from Proposed to Final

- Consistent with a recent SIP revision EPA approved for Ohio on April 7, 2017 (82 FR 16932) to make Ohio's low RVP regulation no longer applicable.
- DEP is currently preparing the NID SIP revision that Act 50 requires.
- DEP does not anticipate adverse health, safety, or welfare impacts from this approach.
- DEP corrected economic information identified by commentators in the Preamble and Regulatory Analysis Form.

Advisory Committee Review

- The following committees and the Citizens Advisory Council voted to concur with DEP's recommendation to move the final rulemaking to the EQB for consideration:
 - Air Quality Technical Advisory Committee (AQTAC)
 - June 15, 2017; voted 12-2-1.
 - Small Business Compliance Advisory Committee
 - July 26, 2017; unanimously.
 - Citizens Advisory Council
 - September 19, 2017.

Implementation and Next Steps

- DEP will submit this final-form regulation, if adopted, to the EPA for approval as a revision to the SIP prior to, or concurrently with, a submission to the EPA of a NID SIP revision that demonstrates that removing the low RVP gasoline requirements will not interfere with attaining and maintaining any NAAQS, as required by the Non-Interference Clause, CAA Section 110(l), also known as the anti-backsliding provision.
- DEP will publish a notice in the *Pennsylvania Bulletin* immediately following EPA's approval of the NID SIP revision to inform the public that the low RVP requirements are no longer effective.

Implementation and Next Steps

- After publication of the *Pennsylvania Bulletin* notice to inform the public that the low RVP requirements are no longer effective, DEP plans to remove Ch. 126, Subch. C from the *Pennsylvania Code* through a separate rulemaking to repeal it.
- DEP will also 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 Ch. 126, Subch. C.
 - <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-50309/273-4000-008.pdf>

Final Rulemaking Recommendation

DEP recommends EQB adoption of the final-form rulemaking to amend § 126.301, as set forth in Annex A.



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