

Comments of the Independent Regulatory Review Commission



Environmental Quality Board Regulation #7-477 (IRRC #2955)

Measurement and Reporting of Condensable Particulate Matter Emissions

October 10, 2012

We submit for your consideration the following comments on the proposed rulemaking published in the July 7, 2012 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

1. Section 121.1. – Definitions. – Clarity.

Condensable particulate matter

A commentator recommends deleting the word “primary” from this definition because it is not used elsewhere in the regulation and could cause uncertainty. Upon our review of Section 121.1, we agree that definitions of “PM-10” and “PM_{2.5}” appear in this section, but the word “primary” is not used in conjunction with them. Unless the EQB can explain why the use of the word “primary” is clear and necessary in this definition, we recommend deleting the word “primary” from the definition of “condensable particulate matter.”

2. Section 139.12. Emissions of particulate matter. – Economic impact; Clarity.

PM-10 or PM_{2.5}

Several commentators suggested amending Subsection (c) to make it consistent with federal provisions (40 CFR 51.166(b)(49)(i)(d)(vi) and 52.21(b)(50)(i)). They suggest adding the phrase “PM-10 or PM_{2.5}” so that subsection (c) would read “Compliance with a particulate matter, **PM-10 or PM_{2.5}**, emission limitation . . .” (Emphasis added.) The EQB should either add this clarification or explain why it is unnecessary.

Test methods and procedures

Subsection (d) states, in part, that “. . . Test methods and procedures must be equivalent to those specified in § 139.4(5).” We note that existing Paragraph 139.4(5) is the Department of Environmental Protection’s (Department) Source Testing Manual. We have two concerns.

First, as written, Subsection (d) is not clear regarding who makes the determination that a test method or procedure is equivalent to those specified in the Source Testing Manual. We recommend rewriting this provision so that it is clear who makes this determination. The EQB should also consider cross referencing Section 139.5 (relating to revisions to the source testing manual and continuous source monitoring manual) so that it is clear how the Department revises the Source Testing Manual.

Second, a commentator requests that the EQB adopt “EPA Conditional Test Method 039” as an equivalent alternate to Methods 201A/202 for compliance demonstration purposes. Is “EPA Conditional Test Method 039” equivalent to those specified in the Source Testing Manual?

3. Applicability of Section 127.705. – Economic impact; Clarity.

In the Preamble and Regulatory Analysis Form, the EQB states that this regulation is an update of current requirements, and consequently the amendments will not impose new or additional compliance costs. However, a commentator asked for clarification of whether this regulation will cause an increase in annual emission fees required by Section 127.705. We will review the EQB’s response to this comment as part of our determination of whether the final-form regulation is in the public interest.