

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency  
Environmental Protection

(2) Agency Number:  
Identification Number: 7-529

IRRC Number: 3162

(3) PA Code Cite: 25 Pa. Code Chapter 121 and Chapter 126, Subchapter C

(4) Short Title: Repeal of Gasoline Volatility Requirements

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

- Proposed Regulation  
 Final Regulation  
 Final Omitted Regulation

- Emergency Certification Regulation;  
 Certification by the Governor  
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking would repeal 25 Pa. Code Chapter 126, Subchapter C (relating to gasoline volatility requirements) as codified in §§ 126.301—126.303 (relating to compliant fuel requirements; recordkeeping and reporting; and compliance and test methods) to remove requirements for gasoline with a Reid vapor pressure (RVP) of 7.8 pounds per square inch (psi) or less (low RVP gasoline) to be sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The seven-county Pittsburgh-Beaver Valley Area includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties. Gasoline vapors include volatile organic compound (VOC) emissions. VOCs are a precursor to the formation of ground-level ozone air pollution and fine particulate matter (PM<sub>2.5</sub>), both hazards to public health and welfare. Gasoline formulated with an RVP of 7.8 psi has lower VOC emissions than gasoline formulated at higher RVP levels. The Chapter 126, Subchapter C requirements were approved by the U.S. Environmental Protection Agency (EPA) as a revision to the Commonwealth's State Implementation Plan (SIP) at 63 Federal Register (FR) 31116 on June 8, 1998, as a control measure to attain and maintain the 1979 1-hour Ozone National Ambient Air Quality Standards (NAAQS) in the Pittsburgh-Beaver Valley Area to protect the public health and welfare.

On May 14, 2014, the Pennsylvania General Assembly enacted an amendment to the Pennsylvania Air Pollution Control Act (APCA or act) that directs the Department of Environmental Protection (Department, DEP) to initiate the process of amending the Commonwealth's SIP. Upon approval of a revision which demonstrates continued compliance with Federal NAAQS through the use of commensurate emission reductions by the EPA, the Environmental Quality Board (Board) shall promulgate regulations to repeal the provisions of Chapter 126, Subchapter C. According to the Senate Co-Sponsorship Memorandum for

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Senate Bill 1037<sup>1</sup>, dated June 5, 2013, the legislation was proposed to address the price differential between low RVP gasoline and conventional gasoline in the Pittsburgh-Beaver Valley Area, cited by the legislative sponsors as being as much as a 10 to 15 cents per gallon (cpg) price difference between the two fuels.

This proposed rulemaking addresses the legislative mandate to promulgate regulations to repeal the provisions of Chapter 126, Subchapter C. If published as a final-form regulation in the *Pennsylvania Bulletin*, this proposed rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP. The Department is proceeding with the demonstration of continued compliance with the NAAQS through the use of commensurate emission reductions separately from this rulemaking action of proposing to repeal the regulations codified at §§ 126.301—126.303.

The proposed rulemaking would also delete terms and definitions from 25 Pa. Code § 121.1 (relating to definitions) that only support Chapter 126, Subchapter C.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The proposed rulemaking is authorized under Section 5(a)(1) of the APC (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth; Section 5(a)(8) of the APC (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Federal Clean Air Act (CAA); and (18.3) of the APC (35 P.S. § 4004(18.3)), which requires the Department to “within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board [Environmental Quality Board] shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements).”

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes, this proposed rulemaking is mandated by state law. There are no relevant state or Federal court decisions relating to the proposed rulemaking. The Pennsylvania General Assembly passed Act 50 of 2014 (Act of May 14, 2014, P.L. 674, No. 50) which amended the Pennsylvania APC to require the Department to “within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements).” The clause was effective May 14, 2014.

<sup>1</sup>Senate Co-Sponsorship Memoranda – Repeal of Summer RVP Gas. Pennsylvania State Senate.

<http://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20130&cosponId=12920>. Accessed August 1, 2016.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This proposed rulemaking is needed to implement Act 50 of 2014, which requires the repeal of Chapter 126, Subchapter C, and the submission of a SIP revision to the EPA to remove the regulation from the Commonwealth's SIP. Act 50 of 2014 requires the removal of the regulatory requirement for a low RVP gasoline, which is a specialty blend fuel, to be blended, mixed, stored, transferred, transported, exchanged, supplied, or sold in the Pittsburgh-Beaver Valley Area during the period of May 1 through September 15 of each year. One potential benefit of the proposed rulemaking would be the elimination of the costs relating to blending gasoline with an RVP of 7.8 psi or less. These cost savings may be passed down through the gasoline supply chain, potentially lowering costs for consumers. Analyses of the financial impact of this proposed rulemaking are presented in the responses to Questions #17-21. Another potential benefit may be a reduction in the recordkeeping and reporting obligation experienced by the regulated community to comply with the requirements of Chapter 126, Subchapter C.

Owners and operators of facilities and infrastructure in the gasoline supply chain, including refineries, bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks, and petroleum pipelines, may benefit from the proposed rulemaking financially and through reduced recordkeeping and reporting obligations. U.S. Census Bureau data indicates there are approximately 1,100 establishments in the Pittsburgh-Beaver Valley Area identified as belonging to one of these industry sectors, employing approximately 11,000 to 14,000 people. Some industry sectors will be impacted more than others. The Department's analysis of potentially affected entities used U.S. Census Bureau data based on the North American Industry Classification System (NAICS) codes for the subject industry sectors; most of the NAICS codes analyzed also include other industry sectors not related to the production, transportation, or sale of gasoline, which may result in the Department's estimated number of affected facilities shown in this Regulatory Analysis Form being higher than the actual number of affected facilities.

The population of the Pittsburgh-Beaver Valley Area was approximately 2,353,045 in 2015. Most of the population likely uses gasoline for operating gasoline-powered vehicles and off-road equipment. Gasoline consumers in the Pittsburgh-Beaver Valley Area, consumers in the adjacent counties who purchase gasoline in the Pittsburgh-Beaver Valley Area, and consumers traveling through the Pittsburgh-Beaver Valley Area may benefit economically if cost savings are passed through to the retail establishments and to the consumers.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No. The repeal of Chapter 126, Subchapter C will result in the RVP of gasoline exchanged, supplied, or sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year reverting to the Federal gasoline volatility requirements specified in Section 211(h) of the CAA, 42 U.S.C.A. 7545(h) (relating to Reid Vapor Pressure requirements) and in EPA's regulations adopted under Section 211(h) of the CAA (40 C.F.R. § 80.27, relating to controls and prohibitions on gasoline volatility). In general, depending on the state and month, the Federal regulations state that gasoline RVP may not exceed 9.0 psi or 7.8 psi – for Pennsylvania, the Federal regulations specify 9.0 psi year-round. EPA approved Pennsylvania's SIP revision for the lower 7.8 RVP requirement in the Pittsburgh-Beaver Valley Area on June 8, 1998 (63 FR 31116). The Federal regulations also provide a 1.0 psi RVP allowance for gasoline containing ethanol at 9 to 10 volume percent (vol%), applicable to Pennsylvania.

After the repeal, this would result in a maximum allowable RVP of 10.0 psi allowed for gasoline blended with ethanol, in all areas of this Commonwealth, except the Philadelphia area where a different type of gasoline is mandated.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

A review of surrounding states, including New York, Ohio, West Virginia, Virginia, Maryland, Delaware, and New Jersey, indicates that Ohio is the only neighboring state with low RVP gasoline requirements. The Ohio counties where the low RVP gasoline requirements apply are in southwestern Ohio and do not directly border Pennsylvania. As a result, Pennsylvania's existing low RVP gasoline requirements for the Pittsburgh-Beaver Valley Area are currently more stringent than the RVP gasoline requirements for most counties located in the surrounding states. The retail cost difference attributable to low RVP gasoline compared to conventional gasoline is estimated to be 1.6 – 9.2 cpg. See Question #23. The proposed rulemaking will align Pennsylvania's gasoline RVP requirements with the requirements of most bordering states. This will enable Pennsylvania gasoline prices in the Pittsburgh-Beaver Valley Area to be more competitive with other states. The total state gasoline taxes and fees in the surrounding states range from 6.9 – 35.8 cpg lower than Pennsylvania, with all but one state's (NY) taxes and fees at least 16.8 cpg lower than Pennsylvania<sup>2</sup>. The Department does not have state-specific historic fuel price data for the surrounding states, but differences in state and local gasoline taxes likely have more influence on the difference in gasoline prices across state borders than the influence of the low RVP gasoline requirements.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No other regulations promulgated by this agency or other state agencies would be affected.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) were briefed on the proposed rulemaking on December 10, 2015, and February 17, 2016, respectively. AQTAC voted 15-5-0 and SBCAC voted unanimously to concur with DEP's recommendation to move the proposed rulemaking forward to the Board for consideration. The five AQTAC members who were opposed expressed concern about the loss of emission reduction benefits as a result of the repeal, how the emission reduction benefits were calculated, and the process used by the Department to demonstrate continued compliance with Federal NAAQS through utilization of commensurate emission reductions. In addition, the proposed rulemaking was presented to the Citizens Advisory Council (CAC) Policy and Regulatory Oversight Committee on March 2, 2016. On the recommendation of the Policy and Regulatory Oversight Committee, on March 15, 2016, the CAC concurred with DEP's recommendation to forward the proposed rulemaking to the Board. The AQTAC, SBCAC and CAC meetings are advertised and open to the public.

<sup>2</sup> Motor Fuel Taxes – State Gasoline Tax Reports – Interactive Gasoline Map. American Petroleum Institute. <http://www.api.org/oil-and-natural-gas/consumer-information/motor-fuel-taxes/gasoline-tax>. Accessed July 28, 2016.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This proposed rulemaking would apply to gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers, and wholesale purchaser-consumers that operate in or deliver gasoline to the Pittsburgh-Beaver Valley Area. These entities include owners and operators of facilities and infrastructure in the gasoline supply chain, such as bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks, and petroleum pipelines. The types and numbers of these businesses, and how they would be affected, are described below.

#### Businesses and employees

The Department's assessment of how many businesses and employees would potentially be subject to the proposed rulemaking began with searching the NAICS codes to identify the gasoline-related industry sectors performing activities currently subject to Chapter 126, Subchapter C. A complete and valid NAICS code contains six digits. See <http://www.naics.com/frequently-asked-questions/>, "Why are some NAICS codes only 5-digits long?" More information about the United States portion of the NAICS is available at <http://www.census.gov/eos/www/naics/>.

Table 1 is a list of the NAICS codes and the relevant industry sectors included in those codes. Some of the NAICS codes also include industry sectors that are not affected by the proposed rulemaking; these industry sectors are not listed in the table. As a result, the number of potentially affected businesses shown in this Regulatory Analysis Form may be higher than the actual number of affected businesses.

Table 1. List of Industry Sectors Related to Transport of Gasoline

NAICS	Relevant Industry Sector
424710	Bulk gasoline stations; Gasoline, bulk stations and terminals.
424720	Gasoline merchant wholesalers (except bulk stations, terminals).
447110	Convenience food with gasoline stations; Gasoline stations with convenience stores; Gasoline with convenience stores.
447190	Gasoline stations without convenience stores; Service gasoline stations; Truck stops.
484220	Tanker trucking (e.g. chemical, juice, milk, petroleum), local.
484230	Tanker trucking (e.g. chemical, juice, milk, petroleum), long distance.
486910	Gasoline pipeline transportation; Pipeline transportation, gasoline and other refined petroleum products.
493190	Bulk petroleum storage.

Once the NAICS were identified, additional information was obtained through American FactFinder, a web-based tool of the U.S. Census Bureau that allows users to search U.S. Census data obtained through annual surveys and censuses, including business information, at various geographic levels, from multiple databases. Table 2 lists the number of establishments and number of employees for each NAICS listed in Table 1 for the Pittsburgh-Beaver Valley Area, based on calendar year 2012 data from American FactFinder.

**Table 2. Number of Pittsburgh-Beaver Valley Area Establishments and Employees by NAICS Code**  
**U.S. Census Bureau American FactFinder 2012 Data**

NAICS	Establishments	Employees
424710	31	445-771
424720	9	60-316
447110	643	6,133-6,531
447190	106	743-901
484220	235	2,391-2,689
484230	44	654-1,218
486910	3	40-198
493190	24	700-1,554
Totals	1,095	11,166-14,178

The Department also gathered information from the Environmental Facility Application Compliance Tracking System (eFACTS) database and the Air Information Management System (AIMS) database about potentially affected facilities. These Department databases share data and interface with each other. The NAICS identifying code is inputted into eFACTS; the database contains records of permitted facilities and some previously inspected facilities for which permits are not required. Site-specific sources and air pollutant emissions, as well as site NAICS codes, are inputted into AIMS to maintain the air pollutant emission inventory. However, eFACTS and AIMS do not provide an exhaustive list of all facilities in this Commonwealth, but only those with which the Department has had contact and a reason to input their data; these are usually the largest emitters. Not all facilities subject to the requirements of Chapter 126, Subchapter C are permitted by the Air Quality Program. If the facility owner or operator is not subject to other air quality regulations, the facility is not likely included in the AIMS database; the facility may be regulated by other programs within the Department, however, and be listed in eFACTS.

A search of the eFACTS database and the AIMS database, using the NAICS codes listed in Table 1, generated a list of 33 facilities in the Pittsburgh-Beaver Valley Area that are likely subject to Chapter 126, Subchapter C. Due to the low number of returns using the NAICS codes, the Department performed an additional search of the databases using Standard Industrial Classification (SIC) system codes. The SIC system classifies industries using a four-digit code. Established in the United States in 1937, it is used by government agencies to classify industry areas. Although this is an older classification system, SIC codes are still used in some Department database entries from various programs. The Department identified the SIC codes corresponding to the NAICS listed in Table 1 and searched the eFACTS and AIMS databases using the SIC codes.

The search by SIC codes generated a list of 152 facilities in the Pittsburgh-Beaver Valley Area that are likely subject to Chapter 126, Subchapter C. The NAICS and corresponding SIC codes are listed in Table 3, as well as the numbers of potentially affected facilities found in the Department databases for each code.

Table 3. NAICS and Corresponding SIC Code and Number of Potentially Affected Facilities in eFACTS and AIMS Databases

NAICS	Number of Facilities	SIC	Number of Facilities
424710	24	5171	60
424720	1	5172	4
447110	5	5411 and 5541	31
447190	0		
484220	0	4212 and 4214	23
484230	0	4213	20
486910	3	4613	7
493190	0	4226	7
<b>TOTAL</b>	<b>33</b>	<b>TOTAL</b>	<b>152</b>

Additionally, information was gathered from the Department's Discoverer database relating to Pennsylvania storage tanks. According to the Discoverer data, there are 1,252 active or temporarily out of service tanks that store gasoline in the Pittsburgh-Beaver Valley Area.

#### Small businesses

A review of the U.S. Small Business Administration (SBA) Small Business Size Regulations under 13 CFR Chapter 1, Part 121 (relating to small business size regulations) provided the standards used by the Department for determining what constitutes a small business for these NAICS categories. The small business size standard for most of these NAICS categories was based on annual product sales in the millions of dollars, and ranges from \$15 million to \$29.5 million. In a few instances the small business-size standard for the affected NAICS code was the number of employees and ranged from 200 to 1,500 employees; that is, the business could have 200 to 1,500 employees, depending on its NAICS, and be considered a small business. The Department requested that the Pennsylvania Small Business Development Center's (SBDC) Environmental Management Assistance Program (EMAP) perform a query of the Hoovers database for a list of businesses, including annual sales and number of employees, for the eight NAICS codes listed above for the Pittsburgh-Beaver Valley Area. The SBDC EMAP provided the Department with a list of 768 businesses for the requested NAICS codes. Table 4 shows the numbers of businesses found in the Pittsburgh-Beaver Valley for each NAICS code by SBDC EMAP and how many are identified as either a small business or not a small business, and for how many a small business status is not available.

Table 4. Number of Facilities per NAICS Code Identified by SBDC EMAP and SBA Small Business Status

NAICS	Industry Sector	SBDC EMAP	SBA Small Business		
			Yes	No	Not Available
424710	Bulk gasoline stations; Gasoline, bulk stations and terminals.	18	18	0	0
424720	Gasoline merchant wholesalers (except bulk stations, terminals).	83	83	0	0
447110	Convenience food with gasoline stations; Gasoline stations with convenience stores; Gasoline with convenience stores.	1	1	0	0
447190	Gasoline stations without convenience stores; Service gasoline stations; Truck stops.	500	384	0	116
484220	Tanker trucking (e.g. chemical, juice, milk, petroleum), local.	64	63	0	1
484230	Tanker trucking (e.g. chemical, juice, milk, petroleum), long distance.	20	19	0	1
486910	Gasoline pipeline transportation; Pipeline transportation, gasoline and other refined petroleum products.	4	4	0	0
493190	Bulk petroleum storage.	78	70	1	7
<b>Totals</b>		<b>768</b>	<b>642</b>	<b>1</b>	<b>125</b>

Of the 768 businesses identified by SBDC EMAP under NAICS 424710, 424720, 447110, 447190, 484220, 484230, 486910, and 493190, 642 qualified as small businesses based on number of employees or annual revenue. Of the remaining businesses, there was no sales data available for 125 businesses and one business did not qualify as a small business because its revenue was over the SBA small business threshold.

It is possible that the proposed rulemaking would also apply to owners and operators of other facilities that have not yet been identified, because NAICS codes are self-reported and facility owners and operators may not have identified themselves under the appropriate NAICS, even if they operate in the gasoline supply chain.

The difference in projected number of affected facilities between the 1,095 facilities identified in U.S. Census Bureau data, the Department's list of 33-152 potentially affected facilities from eFACTS and AIMS, the Department's list of 1,252 gasoline storage tanks, and the SBDC EMAP's list of 768 potentially affected facility owners and operators is likely due to the Department's databases being for the owners and operators of previously and currently permitted (or inspected) facilities based on regulatory criteria for acquiring a permit (or being inspected), while the SBDC EMAP list is based on a self-reported classification of a facility by the facility owner or operator, including small-business-size status, and the U.S. Census Bureau and American FactFinder data is based on self-reporting National

surveys and censuses. If the proposed rulemaking would apply to the owners and operators of facilities that have not yet been identified, many, if not all, of the facilities would likely be small businesses, based on the fact that 84% of the 768 facilities identified by the SBDC EMAP qualified as small businesses.

The Department assumes that all of the identified businesses involved in the sale of gasoline in the Pittsburgh-Beaver Valley Area will be affected by the proposed rulemaking. Businesses involved in the sale of gasoline, including gas stations, bulk terminals, and wholesalers, will likely see an economic benefit from the elimination of the requirement to obtain and sell gasoline with an RVP of 7.8 psi or less if the cost savings of blending the special fuel are passed down the chain from the refinery and terminal to the gas station. The consumer may or may not see a cost savings at the pump. Alternatively, businesses involved in gasoline transport and storage will be unlikely to see much impact, if any, as the type of gasoline being transported does not directly affect the business operation. Recordkeeping requirements for all affected entities may be reduced or simplified since the businesses would not have to document the transfer of gasoline with an RVP of 7.8 psi.

New legal, accounting, recordkeeping and reporting, or consulting procedures would not be required.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

This proposed rulemaking will repeal the Chapter 126, Subchapter C regulation. The persons, groups and entities, including small businesses, currently subject to the regulation will then become subject to the Federal rules (as described in Question 11).

Gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers, and wholesale purchaser-consumers that sell, exchange, supply or store gasoline in the Pittsburgh-Beaver Valley Area between May 1 and September 15 each year must comply with Chapter 126, Subchapter C. As explained in response to Question #15, between 33 and 1,252 businesses may be subject to Chapter 126, Subchapter C. If the proposed rulemaking is published in the *Pennsylvania Bulletin* as a final-form rulemaking, these entities would no longer be required to comply with Chapter 126, Subchapter C. Of the potentially subject facilities identified by SBDC EMAP, 642 businesses were identified as small businesses under the SBA Small Business Size Regulations under 13 CFR Chapter 1, Part 121. Data was not available for 125 facilities to determine if the owners and operators were considered a small business, and one facility was not considered a small business because its revenue was over the small business-size threshold.

Individual facility data was not available for the 1,095 facilities identified in U.S. Census Bureau data. Employment and revenue data was not available for the Department's list of 33-152 potentially affected facilities from eFACTS and AIMS or for the Department's list of 1,252 potentially affected facilities from the Discoverer database, except for those also identified by SBDC EMAP, to determine if these facilities qualified as small businesses. The facilities identified by in the eFACTS, AIMS, and Discoverer databases are required to comply with Chapter 126, Subchapter C. The Department estimates that as many as 84% of the identified facilities may be small businesses, based on the fact that 84% of the 768 facilities identified by the SBDC EMAP qualified as small businesses.

Please also see the response to Question 15.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed rulemaking would impact different segments of the gasoline supply chain differently. The first impacts would be seen at the oil refinery level. Currently it costs refineries more to refine gasoline that can meet the low RVP gasoline requirements than to meet the Federal RVP requirements for conventional gasoline. See the response to Question #19 for a cost analysis. Additionally, low RVP-compliant gasoline must be segregated from other fuels in storage and transport. Most refineries ship finished product through pipelines to off-site terminals, although some can ship products directly to local gas stations through their own on-site terminals. The proposed rulemaking would reduce or eliminate the additional costs associated with refining low RVP-compliant gasoline. The proposed rulemaking may also result in cost savings for refineries in transportation costs, as the refinery would not have to separately ship low RVP gasoline to the Pittsburgh-Beaver Valley Area. Cost savings would also be anticipated from the elimination of the need for separate storage for the low RVP gasoline. The existing regulation does not impose recordkeeping requirements on refineries, so no impact on refinery owners and operators is expected from the proposed repeal of the recordkeeping requirements.

The next stage in the gasoline supply chain is the fuel terminal, also called the “rack.” The price at the terminal is considered the wholesale price of fuel. Wholesale gasoline prices usually do not include taxes, transportation, or retailer costs (referred to as “below the rack” costs). Additionally, prices may fluctuate based on several factors, including National and regional gasoline supply, the price of crude oil, weather, market events (pipeline shutdown), or time of day. Cost savings are anticipated for terminals from the elimination of the need to separately store and transport low RVP-compliant gasoline. Section 126.302 includes recordkeeping requirements for the transfer of gasoline from terminal to retailer (and all steps in between) that would be eliminated by the proposed rulemaking. This may or may not lead to cost savings, as the records kept are likely to continue to be kept for business purposes by terminals. Additional savings may accrue to terminal owners and operators if refineries pass along any of their savings in the form of lower fuel or transportation costs to the terminals.

Gasoline retailers and wholesale purchaser-consumers are the most visible sector of the gasoline supply chain. These include public gasoline service stations (with and without convenience stores) and fueling facilities for private and public fleets. Retail gasoline prices directly reflect rack prices, but include the “below the rack” costs, including taxes, transportation costs, credit card transaction fees, retailer overhead, and retailer net profit. As noted above, several factors may influence terminal prices. As a result, how and when gasoline is purchased from the terminal will significantly impact the price paid and margins realized by retailers. As stated above, § 126.302 includes recordkeeping requirements for the transfer of gasoline from terminal to retailer (and all steps in between) that would be eliminated by the proposed rulemaking. This may or may not lead to cost savings, as records similar to those required by § 126.302 are likely to continue to be kept for business purposes by retailers and wholesale purchaser-consumers. Additional savings may result if refineries pass along any of their savings in the form of lower fuel or transportation costs to the terminals and if the terminals pass along those savings to retailers or wholesale purchaser-consumers.

Transportation costs are intermingled throughout the gasoline supply chain. There is transport from the refineries to the terminals and from the terminals to the retailers or wholesale purchaser-consumers. Some of these costs would be affected by the proposed rulemaking while others would not. The proposed rulemaking would reduce costs for refineries and terminals that are a result of having to transport low RVP-compliant gasoline separately from conventional gasoline. The proposed rulemaking

would likely have a small effect on transport costs from the terminal to the retailer through the elimination of the segregation of the low RVP-compliant gasoline, but most of the terminal-to-retailer transportation costs are based on the volume of fuel being delivered, contracts with retailers, the transport fleet operator, and other shipping fees. Terminal to retailer transport costs are not directly associated with the type of gasoline being transported. The proposed rulemaking is not anticipated to have a significant impact on fuel consumption or vehicle miles traveled in the area. Without specific facility information regarding volume of fuel sold, and without knowledge of the contract terms between terminals, shippers, and retailers, the Department cannot determine the full impact of the proposed rulemaking on transportation costs for gasoline in the Pittsburgh-Beaver Valley Area.

The proposed rulemaking may create economic opportunities for refineries, terminals, and retailers that serve the Pittsburgh-Beaver Valley Area. Refineries that do not produce low RVP-compliant gasoline would be able to sell conventional fuel in the Pittsburgh-Beaver Valley Area during the summer months. Terminals would be able to contract with those refineries to distribute conventional gasoline in the area. Retailers would have more choice of terminals to purchase from, as they would not be restricted to only those terminals that stock low RVP-compliant gasoline.

From a social perspective, residents of the Pittsburgh-Beaver Valley area have a perception of paying significantly higher prices for gasoline, due to the low RVP-compliant gasoline requirement. The proposed rulemaking would remove the cause of that perception, and retail cost variation would be due solely to local, regional, and National market forces, as well as state and local taxes and to other applicable gasoline-blending requirements. A cost analysis of refinery, terminal, and retail prices is provided in the response to Question #19.

The impact of the proposed rulemaking would be comparable for individuals, small businesses, businesses and labor communities, and other public and private organizations. Costs or savings are directly related to the volume of gasoline used or consumed by each of these entities. The proposed rulemaking is unlikely to impact employment, because the current employees involved with low RVP-compliant gasoline would likely still be needed to work on conventional fuel; the volume of fuel demand would not change significantly, just the type of fuel. The Department anticipates a reduction in costs for most, if not all, of these entities.

Entities subject to § 126.302 would no longer be required to comply with the current recordkeeping and reporting requirements, but changes to recordkeeping would likely be minimal because the records eliminated by the proposed rulemaking are in line with what the industry currently tracks for inventory purposes or in current permits. The owner or operator of a facility subject to § 126.302 is required to maintain records sufficient to demonstrate compliance with the applicable requirements; records must be maintained on site, with some exceptions, for 2 years. This requirement would also be eliminated by the proposed rulemaking.

The proposed rulemaking is not expected to have a significant impact on ozone air quality and the public health and welfare in the Pittsburgh-Beaver Valley Area due to the small increase in VOC emissions projected in the near term from switching from low RVP gasoline to conventional RVP gasoline. In order to obtain SIP approval of the repeal of Subchapter C, Pennsylvania must demonstrate noninterference with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. DEP plans to do this by identifying equivalent VOC emission reductions to offset the modeled increases of VOC emissions that would result from the repeal of the requirement to sell low RVP-compliant gasoline in the Pittsburgh-Beaver Valley Area, in accordance with the Pennsylvania Act 50 of 2014. The VOC emission reduction benefits from requiring

low RVP gasoline in the Pittsburgh-Beaver Valley Area steadily decline in future years, decreasing from 1.636 tons per day in 2017 to 1.329 tons per day by 2030. The decline in benefits is due to lower-sulfur-containing gasoline being introduced nationwide through Federal measures, as well as the increasing number of newer, less polluting vehicles in Pennsylvania. The Department is developing a demonstration separately from this rulemaking to show that Pennsylvania will continue to comply with the applicable NAAQS without the emission reduction benefits of the low RVP gasoline.

Please see the response to Question #18 for additional discussion of the environmental impact of repealing Chapter 126, Subchapter C.

Please see the responses to Questions #18 and #19 for additional discussion of cost savings.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefits of the proposed rulemaking are expected to outweigh the costs and short-term environmental effects of the proposed rulemaking.

Repealing the requirements for low RVP gasoline in the Pittsburgh-Beaver Valley Area will likely result in slightly increased emissions of VOCs into the atmosphere for the next few years. The VOC emission reduction benefits from requiring low RVP gasoline in the Pittsburgh-Beaver Valley Area steadily decline in future years, decreasing from VOC emission reductions of 1.636 tons per day in 2017 to VOC emission reductions of 1.329 tons per day by 2030.

Pennsylvania will need to offset these small increases in VOC emissions with VOC emission reductions achieved from other control measures. Pennsylvania has taken credit in two SIP revisions for VOC emission reductions resulting from the use of the low RVP gasoline in the Pittsburgh-Beaver Valley Area since Chapter 126, Subchapter C was incorporated into Pennsylvania's approved SIP on June 8, 1998:

- 1) The Pittsburgh-Beaver Valley Area Request for Redesignation as Attainment and Maintenance Plan for the 1-Hour Ozone NAAQS, approved by the EPA on October 19, 2001 (66 FR 53094); and
- 2) The Pittsburgh-Beaver Valley Area Request for Redesignation as Attainment, Maintenance Plan and Comprehensive Inventory for the 1997 and 2006 24-hour PM<sub>2.5</sub> NAAQS, approved by the EPA on October 2, 2015 (80 FR 59624).

Pennsylvania is required to ensure that the repeal of Chapter 126, Subchapter C complies with the Non-Interference Clause, CAA Section 110(l) (42 U.S.C.A. § 7410(l)). The Non-Interference Clause requires that the EPA Administrator not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment of a NAAQS or reasonable further progress in attaining a NAAQS, or any other applicable requirement of the CAA. The Department intends to demonstrate non-interference to the EPA by using "commensurate emission reductions," as mandated by Act 50 of 2014 for the repeal of the low RVP regulation.

Therefore, even though expected VOC emission reductions achieved by the Chapter 126, Subchapter C requirements are projected to decrease steadily in coming years, the Department will be required to demonstrate to the satisfaction of the EPA that noninterference with attainment, reasonable further progress, or any other applicable requirement of the CAA will not occur for the period of time in which emission reductions would have occurred, in order for the EPA to approve the repeal of §§ 126.301—126.303 as a revision to the SIP.

The emission reduction benefits of Chapter 126, Subchapter C were not modeled separately in the SIP revisions for the Pittsburgh-Beaver Valley Area; the requirements were included in the fuel specifications used for the mobile source modeling in the area. As a result, the modeled mobile source emissions include the emission reduction benefits of the low RVP gasoline program for the area. A consultant (Michael Baker International, Harrisburg Office) performed an analysis which identified the actual emission reduction benefits of the low RVP requirements in future years that will be lost by the repeal of Chapter 126, Subchapter C. The results are presented in Table 5.

The mobile source emissions include both on-road and nonroad emissions. There are several regulatory and technological developments that will affect the emission reduction impact of Chapter 126, Subchapter C. The first is the EPA's Tier 3 Motor Vehicle Emission and Fuel Standards which will require compliance with stringent new vehicle emission standards beginning with model year 2017 vehicles and new gasoline sulfur standards which are effective January 1, 2017 (79 FR 23414, April 28, 2014). The EPA's Tier 3 standards will result in near zero exhaust and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and certain heavy-duty vehicles by 2025. Lower sulfur content (from a 30 parts per billion (ppb) average to a 10 ppb average) (10 ppb Sulfur) in gasoline will significantly reduce emissions of nitrogen oxides (NO<sub>x</sub>), VOC, direct PM<sub>2.5</sub>, carbon monoxide, and air toxics. The lower sulfur content will allow the catalytic converters in both existing and new vehicles to operate more efficiently.

Table 5 shows that the benefits of the low RVP requirements diminish in future years, even approaching zero for the co-benefit of NO<sub>x</sub> emission reductions by 2030. In Table 5, the RVP of gasoline in the Commonwealth, except for the Pittsburgh-Beaver Valley and Philadelphia areas, is assumed to be 10.0 RVP, which is the maximum allowed RVP for gasoline blended with 9-10 vol% ethanol. This is different than the baseline fuel in the Pechan study discussed in Question #19. This is a result of consultation with the EPA, in which the EPA stated that the Department's assumption of 8.7 psi RVP gasoline in the rest of the state did not reflect current average gasoline RVP values. Therefore, the Baker analysis used 10.0 RVP for the baseline fuel, and the results are listed below in Table 5.

**Table 5. Analysis of RVP Benefits<sup>3</sup>**

	2017		2025		2030	
	VOC (t/d)	NOx (t/d)	VOC (t/d)	NOx (t/d)	VOC (t/d)	NOx (t/d)
<b>Regional Mobile Source Emissions - RVP 7.8 with 10% Ethanol &amp; 10 ppb Sulfur</b>	46.577	66.717	33.060	35.858	29.765	28.220
<b>Regional Mobile Source Emissions - RVP 10 with 10% Ethanol &amp; 10 ppb Sulfur</b>	48.213	67.071	34.371	35.909	31.094	28.227
<b>Low-RVP Program Benefits - 7.8 RVP Compared with 10.0 RVP</b>	1.636	0.354	1.311	0.051	1.329	0.007

The wide-spread use of Onboard Refueling Vapor Recovery (ORVR) systems in gasoline-powered vehicles also impacts the emission reduction benefits of low RVP gasoline. ORVR systems are designed to capture evaporative emissions on all model year 2007 and newer light-duty vehicles. The

<sup>3</sup> WO#14 Subtask A Deliverable (Revised Analyses)-Analysis of Low-RVP Impact in Pittsburgh Using MOVES2014: Technical Memorandum and Emission Tables. Dan Szekeres and Ying-Tzu Chung, Michael Baker International. February 2, 2016.

ORVR technology addresses the same issue as the low RVP gasoline regulations, specifically evaporative gasoline emissions, except that the ORVR technology captures these emissions while the low RVP regulation prevents the emissions from occurring. Capturing all of the evaporative emissions prevents those emissions from contributing to the formation of ground-level ozone. The implementation of these standards and technologies will result in diminishing emission reduction benefits from Chapter 126, Subchapter C in future years.

The Pittsburgh-Beaver Valley Area was designated nonattainment for the 1979 1-hour Ozone NAAQS as well as the 1997 and 2008 8-hour Ozone NAAQS. The area was redesignated as attainment for the 1-hour Ozone NAAQS and the EPA approved a 10-year maintenance plan for the area for the 1-hour Ozone NAAQS. The area was designated as nonattainment under the 1997 8-hour Ozone NAAQS, and not redesignated as attainment. The 1997 standard, however, was revoked for all purposes in association with EPA's adoption of the 2008 8-hour Ozone NAAQS and only anti-backsliding requirements apply. On May 4, 2016, the EPA approved a 1-year extension of the attainment date, to July 20, 2016, for the Pittsburgh-Beaver Valley Area under the 2008 8-hour Ozone NAAQS. Based on consultation with the EPA, the Department anticipates that the EPA will make a formal finding that the area has attained the standard by the revised attainment date, based on certified 2013-2015 air quality data. The EPA has six months from the attainment date to determine if the area has met the standard. There are currently 16 air quality monitors in southwestern Pennsylvania, 13 of which are located in counties in the Pittsburgh-Beaver Valley Nonattainment Area. The Department reviewed data about exceedances of the Ozone NAAQS in 2014, 2015, and 2016 (through June 1, 2016). There were no exceedances of the 1997 Ozone NAAQS at any of the 16 monitors in these years. In 2014 there were two exceedances of the 2008 Ozone NAAQS at one monitor and one exceedance each at two other monitors. In 2015 there were two exceedances of the 2008 Ozone NAAQS at one monitor and 1 exceedance each at five other monitors. Thus far in 2016 (through June 1, 2016), there have been zero exceedances of the 2008 Ozone NAAQS at any of the 16 monitors. The noted exceedances do not amount to "violation" of the NAAQS.

The Department plans to develop and submit a Redesignation Request and Maintenance Plan for the 2008 8-hour Ozone NAAQS for the Pittsburgh-Beaver Valley Nonattainment Area. Within the maintenance plan, the Department may include a "non-interference demonstration" or similar language that demonstrates that the area will continue to attain and maintain both the Ozone and PM<sub>2.5</sub> NAAQS without Chapter 126, Subchapter C. While Subchapter C was promulgated primarily as a VOC reduction measure to attain the 1979 1-Hour Ozone NAAQS, Subchapter C is included as a control measure in the Pittsburgh-Beaver Valley PM<sub>2.5</sub> Maintenance Plan due to the co-benefits of NOx reductions; NOx is a precursor pollutant for PM<sub>2.5</sub>. The Department also may submit a "non-interference demonstration" separately, prior to submitting the redesignation request and maintenance plan, in order to achieve quicker SIP approval of the repeal of the low RVP regulation. Although the emission reduction benefits from Chapter 126, Subchapter C diminish in future years, there will likely still be a slight increase in VOC and NOx emissions if the proposed rulemaking (repeal) is published as a final-form rulemaking. In the non-interference demonstration, the Department plans to show that the estimated emission increases likely to result from the repeal are offset by emission reductions from specific programs that are already being implemented, but for which credit has not been taken by the Department in revisions to the Pennsylvania SIP.

The ozone air quality in the Pittsburgh-Beaver Valley Area has consistently improved since the first Ozone NAAQS was implemented. The ozone air quality in the area is expected to continue to improve as a result of current permanent and enforceable control measures and regulations already in place. The Department does not expect the slight and temporary increase in emissions resulting from the repeal of the low RVP gasoline requirements to result in a violation of the 2008 8-hour Ozone NAAQS.

Therefore, as the adverse effects (slight emission increases) diminish in future years, they will be outweighed by the financial benefits of repealing Chapter 126, Subchapter C, as discussed in Questions #17-21.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

A study of the costs associated with refining gasoline blends required in Pennsylvania was completed by E.H. Pechan and Associates in March 2008<sup>4</sup>. The study summarizes the refining costs of the individual gasoline fuels, as well as the total 2009 costs of various gasoline blends for both the Pittsburgh-Beaver Valley Area and the whole Commonwealth. The summarized costs are for refining only and do not include transportation costs. The baseline gasoline used in the 2008 Pechan study of refinery costs was 8.7 psi RVP gasoline. The use of a baseline of 8.7 psi RVP gasoline in the Pechan study was based on the use of 8.7 psi RVP gasoline by the Department as a modeling input to model mobile source emissions for the purposes of Pennsylvania air quality inventory development and SIP revisions at the time of the study. According to the study, the cost for 7.8 psi RVP fuel in the summer months of 2009 was \$1.65 million above the baseline gasoline fuel (8.7 psi RVP) costs in the Pittsburgh-Beaver Valley Area, based on refining costs and gasoline consumption in the area. The cost of 7.8 psi RVP fuel with 10% ethanol in the summer months of 2009 was \$14.88 million above the baseline fuel costs; that is, the cost of further refining the 7.8 psi RVP gasoline fuel with 10% ethanol was approximately \$13.23 million above the cost of the 7.8 psi RVP gasoline fuel without 10% ethanol. Gasoline consumption in the Pittsburgh-Beaver Valley Area was estimated at 329.91 million gallons in the summer months of 2009.

The cost to refine the gasoline fuel from 8.7 psi RVP to 7.8 psi RVP is 0.5 cpg<sup>5</sup> (\$1.65 million / 329.91 million gallons) in the summer months (June 1 – September 15). The cost to further refine the fuel from 7.8 psi RVP to 7.8 psi RVP with 10% ethanol (E-10) is approximately 4 cpg (\$13.23 million / 329.91 million gallons) in the summer months. Since EPA requires an average 10% ethanol content in gasoline, the total cost, above the baseline gasoline fuel refining costs, to refine a compliant gasoline fuel for the Pittsburgh-Beaver Valley Area is 4.5 cpg (\$14.88 million / 329.91 million gallons) in the summer. Costs for adding 10% ethanol to the conventional 8.7 psi RVP fuel for use in the rest of the state (excluding Philadelphia, where different gasoline requirements apply), and during the winter months, were not calculated directly in the study but are approximately 3.3 cpg, based on the information provided about adding ethanol to the 7.8 psi RVP fuel.

The information in the preceding paragraph shows that the majority of extra refining costs come from blending 10% ethanol into the gasoline (4 cpg / 4.5 cpg = 88%), rather than from the 7.8 psi RVP requirement (0.5 cpg / 4.5 cpg = 11%). Only the costs of refining the fuel from 8.7 psi RVP to 7.8 psi RVP, approximately 0.5 cpg, may be reduced or eliminated by this proposed rulemaking to repeal the low RVP gasoline requirement. The proposed rulemaking will not eliminate costs for blending ethanol into gasoline. Some fuel assumptions have changed since the study was conducted, including the assumed RVP of conventional gasoline in Pennsylvania (currently 10.0 psi RVP with the 1psi waiver allowed by EPA). As a result, refining costs for 7.8 psi RVP fuel may currently be slightly higher than the study indicates, but those additional costs would still be reduced or eliminated by the proposed rulemaking.

<sup>4</sup> E.H. Pechan & Associates, Inc. "Fuel Costs for Pennsylvania Gasoline Blends". Pp 1-6, Appendix A. March 19, 2008.

<sup>5</sup> In 2007 dollars.

The Department obtained data from the Oil Price Information Service (OPIS), which provides average weekly gasoline prices at the terminal (rack) for the Pittsburgh metro area and for Pennsylvania as a whole. Weekly data was obtained from OPIS for most weeks between mid-June 2006 and October 2011. Table 6 compares the average summer and winter rack prices in the Pittsburgh metro area and Pennsylvania as a whole, and the average difference between the two values. A negative value in the average difference column indicates that the Pittsburgh metro area average rack price was lower than the Pennsylvania average rack price. A positive value indicates that the Pittsburgh metro area average rack price was higher than the Pennsylvania average rack price. Summer months are defined as May 1 through September 15 of a given year for this dataset. Winter months are defined as September 16 of the initial year through April 30 of the following year for this dataset. The weekly data during the relevant time periods (summer or winter, as defined above) were averaged together to provide an average summer price and an average winter price for each year.

**Table 6. Comparison of Terminal (Rack) Gasoline Prices in the Pittsburgh Metro Area and Pennsylvania**

	May 1 - Sept 15 Pittsburgh Metro	May 1 - Sept 15 PA	Average Difference Summer (PIT-PA=)	Sept 16 - April 30 Pittsburgh Metro	Sept 16 - April 30 PA	Average Difference Winter (PIT-PA=)
<b>2006-2007</b>	\$2.170**	\$2.266	-\$0.095	\$1.806	\$1.823	-\$0.017
<b>2007-2008</b>	\$2.333	\$2.317	\$0.015	\$2.585	\$2.525	\$0.060
<b>2008-2009</b>	\$3.241	\$3.227	\$0.014	\$1.513	\$1.500	\$0.013
<b>2009-2010*</b>						
<b>2010-2011</b>	\$2.053**	\$2.031**	\$0.022**	\$2.620	\$2.621	-\$0.001
<b>2011-2012</b>	\$3.171	\$3.139	\$0.032	\$2.816**	\$2.819**	-\$0.003**

\*An evaluation of 2009-2010 data was not possible due to errors in the dataset.

\*\*Data was not available for May 2006; May, June or July 2011; or after October 2011. These calculations are based on the limited data available for these timeframes.

Table 6 shows that during the summer months, seasonal average rack prices in the Pittsburgh metro area ranged from \$0.095 below to \$0.032 above the Pennsylvania average rack prices. In the winter, seasonal average rack prices in the Pittsburgh metro area ranged from \$0.017 below to \$0.060 above the Pennsylvania average rack prices. There is not a clear correlation between the higher refinery costs for producing low RVP gasoline fuel and the rack prices in the Pittsburgh metro area during the summer months. For the purpose of this analysis, however, the Department is assuming that retailers and wholesale purchaser-consumers in the Pittsburgh metro area will be paying the Pennsylvania average rack gasoline prices if Chapter 126, Subchapter C is repealed. Based on the available data, retailers and wholesale purchaser-consumers would be saving between 1.4 cpg and 3.2 cpg. Actual cost savings are directly dependent on how much gasoline a retailer or wholesale purchaser-consumer purchases from an entity subject to Chapter 126, Subchapter C during the applicable time period.

The Department also obtained OPIS data for average retail gasoline prices for the Pittsburgh metro area and for Pennsylvania as a whole. The data includes weekly average retail gasoline prices for April 2003 through December 2010, and monthly average retail gasoline prices for January 2011 through December 2015. Weekly average data was converted to monthly average data by averaging all weekly data for each month. Monthly data was then averaged for summer and winter. Summer months are defined as

June 1 through September 30 of a given year. Winter months are defined as October 1 of the initial year through May 31 of the following year. Table 7 compares average summer and winter retail gasoline prices in the Pittsburgh metro area and Pennsylvania, as well as the average difference between the two values for the last 10 years. A negative value in the average difference column indicates that the Pittsburgh metro area average retail gasoline price was lower than the Pennsylvania average retail gasoline price. A positive value indicates that the Pittsburgh metro area average retail gasoline price was higher than the Pennsylvania average retail gasoline price.

**Table 7. Comparison of Retail Gasoline Prices in the Pittsburgh Metro Area and Pennsylvania**

	June-Sept Pittsburgh Metro	June-Sept PA	Average Difference Summer (PIT-PA=)	October- May Pittsburgh Metro	October- May PA	Average Difference Winter (PIT-PA=)
2005-2006	\$2.425	\$2.451	-\$0.027	\$2.491	\$2.500	-\$0.009
2006-2007	\$2.810	\$2.846	-\$0.037	\$2.453	\$2.468	-\$0.015
2007-2008	\$2.894	\$2.865	\$0.028	\$3.216	\$3.213	\$0.002
2008-2009	\$3.865	\$3.782	\$0.083	\$2.204	\$2.103	\$0.101
2009-2010	\$2.634	\$2.618	\$0.016	\$2.742	\$2.750	-\$0.007
2010-2011*	\$2.701	\$2.685	\$0.016	\$3.310	\$3.305	\$0.005
2011-2012	\$3.689	\$3.653	\$0.036	\$3.619	\$3.609	\$0.011
2012-2013	\$3.656	\$3.620	\$0.036	\$3.670	\$3.621	\$0.049
2013-2014	\$3.623	\$3.566	\$0.056	\$3.571	\$3.542	\$0.029
2014-2015	\$3.704	\$3.612	\$0.092	\$2.784	\$2.729	\$0.054

\*Data was not available for June or July 2010. These calculations are based on the limited data available for that timeframe.

Table 7 shows that during the summer months, seasonal average retail gasoline prices in the Pittsburgh metro area ranged from \$0.037 below to \$0.092 above the Pennsylvania average retail gasoline prices. In the winter, seasonal average retail gasoline prices in the Pittsburgh metro area ranged from \$0.015 below to \$0.101 above the Pennsylvania average retail gasoline prices. It should be noted that in the last 5 years, Pittsburgh metro area average retail gasoline prices have been higher than the Pennsylvania average retail gasoline prices in both summer and winter. Because the average gasoline retail prices for the Pittsburgh metro area are higher than the Pennsylvania average gasoline prices in both summer and winter for the last 5 years, it is unclear how much of the price differential in summer is due to the low RVP gasoline requirement and how much is due to local market forces and other factors. There is not a clear correlation between the higher refinery costs for producing low RVP gasoline fuel, the rack prices, and the retail gasoline prices in the Pittsburgh metro area during the summer months. For the purpose of this analysis, however, the Department is assuming that consumers in the Pittsburgh metro area will be paying the Pennsylvania average retail gasoline prices if Chapter 126, Subchapter C is repealed. Based on the 5 most recent years of available data, consumers would be saving between 1.6 cpg and 9.2 cpg. Actual cost savings are directly dependent on how much gasoline a consumer purchases from an entity subject to Chapter 126, Subchapter C during the applicable time period.

The Department estimates that total gasoline consumption in the Pittsburgh-Beaver Valley Area for the summer months (June-September) of 2013 was approximately 16,667,316 gallons. Estimated cost

savings resulting from this proposed rulemaking range from \$83,337 (0.5 cpg for refineries) to \$1,533,393 (9.2 cpg for consumers) annually during the summer months.

New legal, accounting, recordkeeping and reporting, or consulting procedures would not be required.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

No gasoline refiners, importers, distributors, resellers, terminals or carriers have been identified as being owned by local government agencies. Local government agencies may be considered a retailer or wholesale purchaser-consumer of gasoline in certain circumstances (for example, local government owned refueling facilities for local government fleet vehicles). If a local government agency does, however, own or operate a gasoline refinery, importer, distributor, reseller, terminal, or carrier, savings commensurate with those for the private sector, as set forth above in the responses to Questions #17 and #19, may be experienced.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

No gasoline refiners, importers, distributors, resellers, terminals or carriers have been identified as being owned by state government agencies. State government agencies may be considered a retailer or wholesale purchaser-consumer of gasoline in certain circumstances (for example, state government owned refueling facilities for state fleet vehicles). If a state government agency does, however, own or operate a gasoline refinery, importer, distributor, reseller, terminal, or carrier, savings commensurate with those for the private sector, as set forth above in the responses to Questions #17 and #19, may be experienced. State government would also save money from the elimination of the costs to test gasoline for compliance with Chapter 126, Subchapter C.

In addition, the Department will rescind 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," as it will no longer be needed.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No additional legal, accounting, recordkeeping and reporting, or consulting procedures are expected for the groups identified in the responses to Questions #19-21 above.

(22a) Are forms required for implementation of the regulation?

No forms are required for the implementation of the proposed rulemaking.

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.

N/A because no forms are required for the implementation of the proposed rulemaking.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

Estimated cost savings resulting from this proposed rulemaking range from \$83,337 (0.5 cpg for refineries) to \$1,533,393 (9.2 cpg for consumers) annually during the summer months.

	<b>Current FY Year 16/17</b>	<b>FY+1 Year 17/18</b>	<b>FY+2 Year 18/19</b>	<b>FY+3 Year 19/20</b>	<b>FY+4 Year 20/21</b>	<b>FY+5 Year 21/22</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0.5 – 3.2 cpg	0.5 – 3.2 cpg	0.5 – 3.2 cpg	0.5 – 3.2 cpg	0.5 – 3.2 cpg	0.5 – 3.2 cpg
<b>Refineries</b>	0.5 cpg	0.5 cpg	0.5 cpg	0.5 cpg	0.5 cpg	0.5 cpg
<b>Retailers/ Wholesale Purchaser-Consumers</b>	1.4 – 3.2 cpg	1.4 – 3.2 cpg	1.4 – 3.2 cpg	1.4 – 3.2 cpg	1.4 – 3.2 cpg	1.4 – 3.2 cpg
<b>Local Government</b>	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg
<b>State Government</b>	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg
<b>Public Consumers</b>	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg	1.6 – 9.2 cpg
<b>Total Savings</b>	0.5 – 9.2 cpg	0.5 – 9.2 cpg	0.5 – 9.2 cpg	0.5 – 9.2 cpg	0.5 – 9.2 cpg	0.5 – 9.2 cpg
<b>COSTS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Local Government</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>State Government</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Costs</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>REVENUE LOSSES:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Local Government</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>State Government</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Revenue Losses</b>	0.00	0.00	0.00	0.00	0.00	0.00

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3 (13/14)	FY-2 (14/15)	FY-1 (15/16)	Current FY (16/17)
Environmental Program Management (161-10382)	\$25,733,000	\$28,517,000	\$25,834,000	\$30,025,000
Clean Air Fund Major Emission Facilities (215-20077)	\$18,413,000	\$16,870,000	\$15,259,000	\$21,050,000
Clean Air Fund Mobile and Area Facilities (233-20084)	\$8,036,000	\$9,811,000	\$8,667,000	\$11,454,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

The proposed rulemaking would apply to gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers and wholesale purchaser-consumers that sell, exchange, or supply gasoline to the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year.

The SBDC EMAP provided the Department with a list of 768 businesses for the requested NAICS codes. Of the potentially subject facilities, 642 businesses were identified as small businesses under the SBA Small Business Size Regulations under 13 CFR Chapter 1, Part 121. Data was not available for 125 facilities to determine if the owners and operators were considered a small business, and one facility was not considered a small business because its revenue was over the small business threshold.

It is possible that the proposed rulemaking would also apply to owners and operators of other facilities that have not yet been identified. If the proposed rulemaking would apply to the owners and operators of facilities that have not yet been identified, the Department estimates that as many as 84% of the unidentified facilities may be small businesses, based on the fact that 84% of the 768 facilities identified by the SBDC EMAP qualified as small businesses.

A more complete discussion of the possible range of numbers of affected small businesses is in response to Question #15.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

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.

(c) A statement of probable effect on impacted small businesses.

Implementation of the proposed rulemaking provisions should have minimal impact on the owners and operators of affected small business-sized facilities and businesses. It would likely reduce the recordkeeping and reporting requirements for those businesses, and may reduce some costs associated with purchasing, storing, or transporting gasoline.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There are no less intrusive or less costly alternative regulatory provisions available. The Department must comply with the requirements of Act 50 of 2014.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

Minorities, the elderly, small businesses, and farmers who are not owners or operators of a gasoline supply chain facility or business would not be affected negatively by the proposed rulemaking. For those that might be owners or operators of a subject facility or business, no special provisions are necessary. These same people may be positively impacted as consumers by the proposed rulemaking, if it results in lower gasoline prices in the Pittsburgh-Beaver Valley Area.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were considered to comply with the requirements of Act 50 of 2014, which explicitly directs the Department to repeal Chapter 126, Subchapter C. The proposed rulemaking is the least burdensome approach to repeal Chapter 126, Subchapter C.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

a) The establishment of less stringent compliance or reporting requirements for small businesses;

The proposed rulemaking would eliminate certain compliance and reporting requirements for small businesses involved in the gasoline supply chain.

b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

The proposed rulemaking would eliminate the Chapter 126, Subchapter C compliance and reporting requirements for small businesses involved in the gasoline supply chain upon promulgation as a final-form regulation.

c) The consolidation or simplification of compliance or reporting requirements for small businesses;

The proposed rulemaking would eliminate certain compliance and reporting requirements for small businesses involved in the gasoline supply chain.

- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and

The establishment of performing standards for small businesses is not necessary, as this proposed rulemaking is a repeal of Chapter 126, Subchapter C and would result in the elimination of any design or operational standards currently required.

- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

An exemption of small businesses is not necessary, as this is a repeal of Chapter 126, Subchapter C, and would result in the elimination of current requirements codified in the regulation.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data from various sources was used to determine the number of potentially affected sources, area population, and the costs and benefits of the proposed rulemaking. Explanations of how the data was used are included throughout the document where the data source is cited. The following list provides more complete citations for data sources referenced in this Regulatory Analysis Form:

*Air Information Management System (AIMS) Database Search of the Pittsburgh-Beaver Valley Area by NAICS and SIC.* Pennsylvania Department of Environmental Protection. Generated by PA DEP Bureau of Air Quality staff. Received as Excel spreadsheet via email May 11, 2016, and May 24, 2016.

*American FactFinder 2012 Economic Census EC1200A1.* U.S. Census Bureau. Generated by PA DEP Bureau of Air Quality staff using American FactFinder. Downloaded as PDF and Excel spreadsheet on May 3, 2016. <http://factfinder2.census.gov/>.

*Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015.* U.S. Census Bureau, Population Division. Release date March 2016. Pennsylvania, all counties. Downloaded as PDF on May 10, 2016. <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

*Discoverer Database Search of the Pittsburgh-Beaver Valley Area for Active and Temporarily Inactive Storage Tanks Storing Gasoline.* Pennsylvania Department of Environmental Protection. Generated by PA DEP Bureau of Environmental Cleanup and Brownfields staff. Received as Excel spreadsheets via email June 8, 2016.

*Environmental Facility Application Compliance Tracking System (eFACTS) Database Search of the Pittsburgh-Beaver Valley Area by NAICS and SIC.* Pennsylvania Department of Environmental

Protection. Generated by PA DEP Bureau of Air Quality staff. Received as Excel spreadsheet via email May 11, 2016, and May 24, 2016.

*Hoover's Database Search for Small Businesses in the Pittsburgh-Beaver Valley Area by NAICS.* Pennsylvania Small Business Development Centers (SBDC) Environmental Management Assistance Program (EMAP). <http://www.hoovers.com/>. Generated by SBDC EMAP on May 13, 2016. Received as Excel spreadsheet via email May 13, 2016.

*Fuel Costs for Pennsylvania Gasoline Blends.* E.H. Pechan & Associates, Inc. March 19, 2008.

*Gas Price Data – Data Download Monthly Average Gasoline Prices January 2011 – December 2015 for Pittsburgh and Pennsylvania.* Gas Price Data by GasBuddy.com. <https://www.gaspricedata.com/>. Accessed May 24, 2016.

*North American Industry Classification Standards.* <http://www.census.gov/eos/www/naics/> and <http://www.naics.com/>.

*Oil Price Information Service (OPIS) Weekly Wholesale Rack Gasoline Prices June 2006 – October 2011.* OPIS. Received as Excel spreadsheet via email April 22, 2016.

*Oil Price Information Service (OPIS) Weekly Retail Gasoline Prices April 2003 – October 2011.* OPIS. Received as Excel spreadsheet via email April 22, 2016.

*Standard Industrial Classification (SIC) System.* <https://www.osha.gov/pls/imis/sicsearch.html> and [https://www.osha.gov/pls/imis/sic\\_manual.html](https://www.osha.gov/pls/imis/sic_manual.html).

*WO#14 Subtask A Deliverable (Revised Analyses)-Analysis of Low-RVP Impact in Pittsburgh Using MOVES2014: Technical Memorandum and Emission Tables.* Dan Szekeres and Ying-Tzu Chung, Michael Baker International. February 2, 2016.

(29) Include a schedule for review of the regulation including:

- |   |                                    |
|---|------------------------------------|
| A. The length of the public comment period:   | <u>60 days</u>                     |
| B. The date or dates on which any public meetings or hearings will be held:                   | <u>1st Quarter 2017</u>            |
| C. The expected date of delivery of the final-form regulation:                                | <u>4<sup>th</sup> Quarter 2017</u> |
| D. The expected effective date of the final-form regulation:                                  | <u>1st Quarter 2018</u>            |
| E. The expected date by which compliance with the final-form regulation will be required:     | <u>May 1, 2019</u>                 |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u>                         |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulation after its implementation.

This proposed rulemaking would repeal a regulation. There will not be a regulation to review for continuing effectiveness after its repeal.

RECEIVED  
IRRC

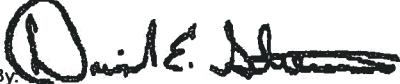
**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU**

**(Pursuant to Commonwealth Documents Law)**

2017 FEB 10 PM 4:06

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Copy below is hereby approved as to form and legality.  
Attorney General

By:   
(Deputy Attorney General)

JAN 11 2017

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

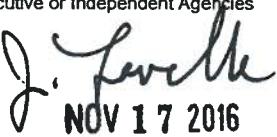
DOCUMENT/FISCAL NOTE NO. 7-529DATE OF ADOPTION OCTOBER 18, 2016

BY

  
TITLE PATRICK MCDONNELL  
ACTING CHAIRMAN

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY   
NOV 17 2016

DATE OF APPROVAL

(Deputy General Counsel)  
~~(Chief Counsel - Independent Agency)~~  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

### NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

Repeal of Gasoline Volatility Requirements

25 Pa. Code, Chapters 121 and 126



**PROPOSED RULEMAKING**  
**ENVIRONMENTAL QUALITY BOARD**  
**[25 PA CODE CHS. 121 and 126]**  
**Gasoline Volatility Requirements**

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 126 (relating to general provisions; and motor vehicle and fuels programs) to read as set forth in Annex A. The proposed rulemaking will repeal Chapter 126, Subchapter C (relating to gasoline volatility requirements). The proposed rulemaking will also delete terms and definitions from § 121.1 (relating to definitions) that only support Chapter 126, Subchapter C.

This proposed rulemaking is given under Board order at its meeting of October 18, 2016.

**A. Effective Date**

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

**B. Contact Persons**

For further information, contact Kirit Dalal, Chief, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, P.O Box 8468, Harrisburg, PA 17105-8468, (717) 772-3436; or Kristen Furlan, Assistant Director, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Public Participation," then "Environmental Quality Board").

**C. Statutory Authority**

The proposed rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth; section 5(a)(8) of the APCA (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Federal Clean Air Act (CAA); and section 4(18.3) of the APCA (35 P.S. § 4004(18.3)), which requires the Department to "within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements)."

#### *D. Background and Purpose*

The proposed rulemaking will repeal Chapter 126, Subchapter C as codified in §§ 126.301—126.303 (relating to compliant fuel requirements; recordkeeping and reporting; and compliance and test methods) to remove requirements for gasoline with a Reid vapor pressure (RVP) of 7.8 pounds per square inch (psi) or less (low RVP gasoline) to be sold or transferred into or within the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The Pittsburgh-Beaver Valley Area includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland Counties. Gasoline vapors include volatile organic compound (VOC) emissions. VOCs are a precursor to the formation of ground-level ozone air pollution and fine particulate matter (PM<sub>2.5</sub>), both hazards to public health and welfare. Gasoline formulated with an RVP of 7.8 psi has lower VOC emissions than gasoline formulated at higher RVP levels. The Chapter 126, Subchapter C requirements were approved by the EPA as a revision to the Commonwealth's State Implementation Plan (SIP) at 63 FR 31116 on June 8, 1998, as a control measure to attain and maintain the 1-hour Ozone National Ambient Air Quality Standards (NAAQS) in the Pittsburgh-Beaver Valley Area to protect the public health and welfare.

The Commonwealth's General Assembly passed the act of May 14, 2014 (P.L. 674, No. 50) (Act 50), which amended the APCD to require the Department to "within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subch. C (relating to gasoline volatility requirements)." The clause was effective May 14, 2014. According to the Senate Co-Sponsorship Memorandum for Senate Bill 1037, dated June 5, 2013<sup>1</sup>, the legislation was proposed to address the price differential between low RVP gasoline and conventional gasoline in the Pittsburgh-Beaver Valley Area, cited by the legislative sponsors as being as much as a 10 to 15 cents per gallon (cpg) price difference between the two fuels.

The Commonwealth is required to ensure that the repeal of Chapter 126, Subchapter C complies with the Non-Interference Clause, Clean Air Act (CAA) Section 110(l) (42 U.S.C.A. § 7410(l)). The Non-Interference Clause requires that the EPA Administrator not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment of a NAAQS or reasonable further progress in attaining a NAAQS, or any other applicable requirement of the CAA. The Department intends to demonstrate non-interference to the EPA through using "commensurate emission reductions," as mandated by Act 50 of 2014 for the repeal of the low RVP regulation.

This proposed rulemaking addresses the legislative mandate to promulgate regulations to repeal the provisions of Chapter 126, Subchapter C. After the repeal, the persons, groups and entities, including small businesses, currently subject to the regulation will then become subject to the

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<sup>1</sup> Senate Co-Sponsorship Memoranda – Repeal of Summer RVP Gas. Pennsylvania State Senate.  
<http://www.legis.state.pa.us//cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20130&cosponId=12920>. Accessed August 1, 2016.

Federal rules. The applicable Federal regulations state that gasoline RVP may not exceed 9.0 psi for Pennsylvania year-round (40 C.F.R. § 80.27(a)(2)), unless a SIP revision with a lower RVP requirement is approved by EPA for a specific area. The Federal regulations also provide a 1.0 psi RVP allowance for gasoline containing ethanol at 9 to 10 volume percent (vol%), applicable to Pennsylvania (40 C.F.R. § 80.27(d)(1)). After the repeal of the 7.8 RVP requirement, this will result in a maximum allowable RVP of 10.0 psi allowed for gasoline blended with ethanol, in all areas of this Commonwealth, except the Philadelphia area where a different type of gasoline is mandated.

If published as a final-form regulation in the Pennsylvania Bulletin, this proposed rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP. The Department is proceeding with the demonstration of continued compliance with the applicable NAAQS through the use of commensurate emission reductions separately from this rulemaking action of proposing to repeal the regulations codified at §§ 126.301—126.303.

This proposed rulemaking will apply to gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers and wholesale purchaser-consumers who sell, exchange or supply gasoline in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. These entities include owners and operators of facilities and infrastructure in the gasoline supply chain, such as bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks and petroleum pipelines.

A review of multiple Department databases identified between 33 and 1,252 businesses that may be subject to Chapter 126, Subchapter C. Additionally, the Commonwealth's Small Business Development Center's (SBDC) Environmental Management Assistance Program (EMAP) performed a query of the Hoovers database for a list of potentially subject businesses based on North American Industry Classification System (NAICS) codes provided by the Department and provided the Department with a list of 768 businesses that are potentially subject to Chapter 126, Subchapter C. The Department also identified 1,095 potentially affected entities through American FactFinder, a web-based tool of the U.S. Census Bureau. The Department estimates that as many as 84% of the entities identified from all sources may be small businesses, based on the fact that 84% of the 768 entities identified by the SBDC EMAP qualified as small businesses.

Based on the available data, if this proposed rulemaking is published as a final-form rulemaking in the *Pennsylvania Bulletin*, refineries may save 0.5 cpg, retailers and wholesale purchaser-consumers may save between 1.4 cpg and 3.2 cpg, and consumers may save between 1.6 cpg and 9.2 cpg. Actual cost savings for retailers, wholesale purchaser-consumers and consumers are directly dependent on how much gasoline is purchased from an entity subject to Chapter 126, Subchapter C during the applicable time period. The Department estimates that total gasoline consumption in the Pittsburgh-Beaver Valley Area for the summer months (June-September) of 2013 was approximately 16,667,316 gallons. Estimated cost savings resulting from this proposed rulemaking range from \$83,337 (0.5 cpg for refineries) to \$1,533,393 (9.2 cpg for consumers) annually during the summer months.

The Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) were briefed on the proposed rulemaking on December 10, 2015, and February 17, 2016, respectively. AQTAC voted 15-5-0 and SBCAC voted unanimously to concur with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration. The five AQTAC members who were opposed expressed concern about the loss of emission reduction benefits as a result of the repeal, how the emission reduction benefits were calculated, and the process used by the Department to demonstrate continued compliance with the Federal NAAQS through the use of commensurate emission reductions. The proposed rulemaking was presented to the Citizens Advisory Council (CAC) Policy and Regulatory Oversight Committee on March 2, 2016. On the recommendation of the Policy and Regulatory Oversight Committee, on March 15, 2016, the CAC concurred with the Department's recommendation to forward the proposed rulemaking to the Board. The AQTAC, SBCAC and CAC meetings are advertised and open to the public.

#### *E. Summary of Regulatory Requirements*

##### *§ 121.1. Definitions.*

This section contains definitions relating to air quality regulations. The proposed rulemaking will delete the following terms: "compliant fuel," "importer," "low RVP gasoline," and "Pittsburgh-Beaver Valley Area."

##### *§ 126.301. Compliant fuel requirement.*

This section describes when and where low RVP gasoline is required and details the restrictions on selling, exchanging, supplying, blending, mixing, storing and transferring compliant and noncompliant fuel during the applicable period. The proposed rulemaking will repeal § 126.301.

##### *§ 126.302. Recordkeeping and reporting.*

This section describes the recordkeeping and reporting requirements of the subchapter, including when records are required, who must maintain the records and what must be included in the records. The proposed rulemaking will repeal § 126.302.

##### *§ 126.303. Compliance and test methods.*

This section identifies the approved methodology for sampling and testing gasoline to determine RVP. The proposed rulemaking will repeal § 126.303.

#### *F. Benefits, Costs and Compliance*

##### *Benefits*

The benefits of the proposed rulemaking are expected to outweigh the costs and short-term environmental effects of the proposed rulemaking.

Repealing the requirements for low RVP gasoline in the Pittsburgh-Beaver Valley Area will likely result in slightly increased emissions of VOCs into the atmosphere for the next few years. The VOC emission reduction benefits from requiring low RVP gasoline in the Pittsburgh-Beaver Valley Area steadily decline in future years, decreasing from VOC emission reductions of 1.636 tons per day in 2017 to VOC emission reductions of 1.329 tons per day by 2030. The nitrogen oxide (NO<sub>x</sub>) emission reduction co-benefits of low RVP gasoline decline from 0.354 tons per day in 2017 to 0.007 tons per day in 2030. The Commonwealth will need to offset these small increases in VOC emissions with VOC emission reductions achieved from other control measures.

One potential benefit of the proposed rulemaking would be the elimination of the costs relating to blending gasoline with an RVP of 7.8 psi or less to be exchanged, supplied or sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. These cost savings may be passed down through the gasoline supply chain, potentially lowering costs for consumers. Another potential benefit may be a reduction in the recordkeeping and reporting obligations experienced by the regulated community to comply with the requirements of Chapter 126, Subchapter C.

Owners and operators of facilities and infrastructure in the gasoline supply chain, including refineries, bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks and petroleum pipelines may benefit from the proposed rulemaking both financially and through reduced recordkeeping and reporting obligations. As stated above, the Department identified between 33 and 1,252 businesses in the Pittsburgh-Beaver Valley Area that may be subject to Chapter 126, Subchapter C. Some industry sectors will be impacted more than others. The Department's analysis of potentially affected entities used U.S. Census Bureau data based on the NAICS codes for the subject industry sectors; most of the NAICS codes analyzed also include other industry sectors not related to the production, transportation or sale of gasoline, which may result in the Department's estimated number of affected facilities being higher than the actual number of affected facilities.

The population of the Pittsburgh-Beaver Valley Area was approximately 2,353,045 in 2015. It is likely that most of the population uses gasoline for operating gasoline-powered vehicles and off-road equipment. Gasoline consumers in the Pittsburgh-Beaver Valley Area, consumers in the adjacent counties who purchase gasoline in the Pittsburgh-Beaver Valley Area and consumers traveling through the Pittsburgh-Beaver Valley Area may benefit economically if cost savings are passed through to the retail establishments and the ultimate consumers.

#### *Compliance costs*

The proposed rulemaking is expected to result in cost savings or no financial impact for most affected entities. Businesses involved in the sale of gasoline, including gas stations, bulk terminals and wholesalers, will likely see an economic benefit from the elimination of the requirement to obtain and sell gasoline with an RVP of 7.8 psi or less if the cost savings of blending the special fuel are passed down the supply chain from the refinery and terminal to the gas station. The ultimate consumer may or may not see a cost savings at the pump. On the other

hand, businesses involved in gasoline transport and storage will be unlikely to see much impact, if any, as the type of gasoline being transported does not directly affect the business operation.

Refineries may save up to 0.5 cpg, the cost to refine the gasoline fuel from 8.7 psi RVP to 7.8 psi RVP. The baseline gasoline used in a study of refinery costs conducted in 2008 by Pechan and Associates for the Department was 8.7 psi RVP gasoline. The use of a baseline of 8.7 psi RVP gasoline in the Pechan study was based on the use of 8.7 psi RVP gasoline by the Department as a modeling input to model mobile source emissions for the purposes of Pennsylvania air quality inventory development and SIP revisions at the time of the study. The baseline fuel used in the analysis performed by a consultant for this rulemaking to determine the emission reduction benefits of Subchapter C was 10.0 psi RVP gasoline, based on consultation with EPA. The costs to blend in ethanol for an average 10% ethanol content are not affected by this proposed rulemaking. The Department obtained data from the Oil Price Information Service (OPIS), which provides average weekly gasoline prices at the terminal (rack) for the Pittsburgh metro area and for this Commonwealth as a whole. Weekly data was obtained from OPIS for most weeks between mid-June 2006 and October 2011. Based on the available data, retailers and wholesale purchaser-consumers may save between 1.4 cpg and 3.2 cpg as a result of this proposed rulemaking. The Department also obtained OPIS data for average retail gasoline prices for the Pittsburgh metro area and for this Commonwealth as a whole. The data includes weekly average retail gasoline prices for April 2003 through December 2010, and monthly average retail gasoline prices for January 2011 through December 2015. Based on the 5 most recent years of available data, consumers may save between 1.6 cpg and 9.2 cpg as a result of this rulemaking. Actual cost savings for retailers, wholesale purchaser-consumers and consumers are directly dependent on how much gasoline is purchased from an entity subject to Chapter 126, Subchapter C during the applicable time period.

Recordkeeping requirements for all affected entities may be reduced or simplified since the businesses will not be required to document the transfer of gasoline with an RVP of 7.8 psi. This may or may not lead to cost savings, as the records kept are likely to continue to be kept for business purposes by terminals and retailers.

The Board anticipates that implementation of the proposed rulemaking provisions will have minimal financial impact on the owners and operators of affected facilities.

#### *Compliance assistance plan*

The Department does not anticipate that compliance assistance will be required, as this proposed rulemaking eliminates requirements, including recordkeeping and reporting requirements. The Department will respond to questions that affected facilities may have about transitioning from 7.8 psi RVP gasoline to 9.0 or 10.0 psi RVP gasoline through the Department's ongoing compliance assistance program.

In addition, the Department will rescind 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," as it will no longer be needed.

### *Paperwork requirements*

The owner or operator of a facility subject to the existing regulation is required to maintain records sufficient to demonstrate compliance with the applicable requirements. The proposed rulemaking eliminates the recordkeeping and reporting requirements for owners and operators of affected facilities.

### *G. Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

Although a slight increase in VOC and NOx emissions is expected with the repeal of the low RVP gasoline requirements, the emission increases are expected to be offset by emission reductions from other control measures. The ozone air quality in the Pittsburgh-Beaver Valley Area has consistently improved since the first Ozone NAAQS was implemented and is expected to continue to do so as a result of current permanent and enforceable control measures and regulations. In order to demonstrate compliance with Act 50 and with the Non-Interference Clause of CAA Section 110(l), the Commonwealth plans to identify equivalent emission reductions to offset the emission reductions that would be lost in future years after Chapter 126, Subchapter C is repealed and removed from the SIP.

### *H. Sunset Review*

This provision is not applicable because the regulation will no longer exist.

### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 10, 2017, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

#### *J. Public Comments*

Interested persons are invited to submit written comments, suggestions, support, or objections regarding the proposed rulemaking to the Board. Comments, suggestions, support, or objections must be received by the Board by April 28, 2017. In addition to the submission of comments, interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by April 28, 2017. The one-page summary will be distributed to the Board and available publicly prior to the meeting when the final rulemaking will be considered.

Comments including the submission of a one-page summary of comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board by accessing the eComment system at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at [RegComments@pa.gov](mailto:RegComments@pa.gov). A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16<sup>th</sup> Floor, 400 Market Street, Harrisburg, PA 17101-2301.

#### *K. Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held at 1:00 p.m. on the following dates:

March 28, 2017 Department of Environmental Protection  
Southwest Regional Office  
Waterfront Conference Rooms A&B  
400 Waterfront Drive  
Pittsburgh, PA 15222

March 29, 2017 Department of Environmental Protection  
Southeast Regional Office  
Delaware and Schuylkill Conference Rooms  
2 East Main Street  
Norristown, PA 19401

March 30, 2017 Department of Environmental Protection  
Rachel Carson State Office Building  
Conference Room 105  
400 Market Street  
Harrisburg, PA 17105

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to five minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

PATRICK McDONNELL,  
*Acting Chairperson*



## PROPOSED RULEMAKING

### Annex A

#### TITLE 25. ENVIRONMENTAL PROTECTION

##### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

###### Subpart C. PROTECTION OF NATURAL RESOURCES

###### ARTICLE III. AIR RESOURCES

###### CHAPTER 121. GENERAL PROVISIONS

###### **§ 121.1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**[Compliant fuel—Low RVP gasoline.]**

\* \* \* \* \*

**[Importer—A person who imports gasoline or gasoline blending stocks or components from a foreign country into the United States.]**

\* \* \* \* \*

**[Low RVP gasoline—Gasoline that has an RVP of 7.8 pounds per square inch or less as determined in accordance with the appropriate sampling and testing methodologies in 40 CFR Part 80, Appendix E (relating to test for determining Reid vapor pressure (RVP) of gasoline and gasoline-oxygenate blends).]**

\* \* \* \* \*

**[Pittsburgh-Beaver Valley Area—The seven-county area comprised of the following Pennsylvania counties: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland.]**

\* \* \* \* \*

###### CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS

###### SUBCHAPTER C. GASOLINE VOLATILITY REQUIREMENTS

###### **Sec.**

**126.301. Compliant fuel requirement.**

**126.302. Recordkeeping and reporting.**

**126.303. Compliance and test methods.]**

**126.301—126.303. [Reserved].**

**§ 126.301. [Compliant fuel requirement.] [Reserved].**

[ (a) This subchapter applies to gasoline which is sold or transferred into or within the Pittsburgh-Beaver Valley Area during the period May 1 through September 15, 1998, and continuing every year thereafter.

(b) A refiner, importer, distributor, reseller, terminal owner and operator or carrier, may not:

(1) Sell, exchange or supply gasoline that is not a compliant fuel during the period described in subsection (a).

(2) Blend, mix, store or transport or allow blending, mixing, storing or transporting of compliant fuel with noncompliant fuel during the period described in subsection (a).

(c) A retailer or wholesale purchaser-consumer may not sell, exchange or supply gasoline that is not a compliant fuel during the period June 1 through September 15, 1998, and continuing every year thereafter.]

**§ 126.302. [Recordkeeping and reporting.] [Reserved].**

[ (a) Beginning with the terminal owner or operator who sells or transfers gasoline intended for use in the Pittsburgh-Beaver Valley Area during the period described in § 126.301(a) (relating to compliant fuel requirements), each time the physical custody of or title to a shipment of gasoline changes hands, other than when gasoline is sold or transferred for use in motor vehicles at a retail outlet or wholesale purchaser-consumer's facility, the transferor shall provide to the transferee a copy of the record described in this subsection. This record shall legibly and conspicuously contain, at a minimum, the following information:

(1) The date of the sale or transfer.

(2) The name and address of the transferor.

(3) The name and address of the transferee.

(4) The location of the gasoline at the time of transfer.

(5) The volume of gasoline which is being sold or transferred.

(6) A statement or grade code certifying that the gasoline has an RVP of 7.8 pounds per square inch or less per gallon.

(b) A person who transports, stores or sells compliant fuel that is intended for use in the Pittsburgh-Beaver Valley Area during the period described in § 126.301(a), shall segregate the compliant fuel from noncompliant fuel and the documentation described in subsection (a) shall accompany the compliant fuel at all times.

**(c) Each person in the gasoline distribution network shall maintain records containing the compliance information listed in subsection (a). These records shall be retained for at least 2 years from the date of the sale or transfer of compliant fuel.**

**(d) The records containing the compliance information in subsection (a) for the period described in subsection (c) shall be kept onsite at each point in the distribution network except for retail outlets. Retail outlets shall retain these records for the period described in subsection (c) and only those records for the current period described under § 126.301(c) shall be kept onsite. At the end of each period described under § 126.301(c), these records may be transferred to an alternate location for the remainder of the period described under subsection (c) and be made available to the Department upon request.]**

**§ 126.303. [Compliance and test methods.] [Reserved].**

**[ Compliance with the 7.8 pounds per square inch RVP standard shall be determined by use of the sampling and testing methods specified in this section. Sampling or testing of gasoline required by this chapter shall be accomplished as follows:**

**(1) Sampling of gasoline for the purpose of determining compliance with this subchapter shall be conducted in accordance with 40 CFR Part 80, Appendix D (relating to sampling procedures for fuel volatility).**

**(2) Testing of gasoline for purposes of determining compliance with this rule shall be conducted in accordance with 40 CFR Part 80, Appendix E (relating to test for determining Reid Vapor Pressure (RVP) of gasoline and gasoline-oxygenate blend).]**





# Citizens Advisory Council

to the Department of Environmental Protection

P.O. Box 8459 § Rachel Carson State Office Building

Harrisburg, PA 17105-8459 • 717-787-4527 • Fax 717-787-2878

March 18, 2016

*Allegheny County*  
Cynthia Carow  
John J. Walliser, Esq.

*Bedford County*  
William Fink

*Chester County*  
Donald S. Welsh

*Crawford County*  
Burt A. Waite

*Cumberland County*  
Walter N. Heine  
James Welty  
R. Timothy Weston, Esq.

*Fayette County*  
John R. Over, Jr.

*Greene County*  
Terry L. Dayton

*Lancaster County*  
James Sandoe

*Lebanon County*  
John Hines

*Philadelphia County*  
Dr. Joi Spraggins

*Tioga County*  
Thaddeus K. Stevens

*Washington County*  
Mark Caskey

Ms. Joyce E. Epps  
Director  
Bureau of Air Quality  
P.O. Box 8468  
Harrisburg, PA 17105-8468

Dear Ms. Epps:

Pursuant to the requirements of Section 7.6 of the Air Pollution Control Act, on March 2, 2016, staff from the Bureau of Air Quality briefed the Citizens Advisory Council (Council) Policy and Regulatory Oversight Committee (Committee) on the proposed rulemaking for the Repeal of Gasoline Volatility Requirements. The proposed rulemaking amends 25 Pa. Code Chapter 126, Subchapter C, by repealing regulations relating to the gasoline volatility requirements as required by Act 50 of 2014.

On the recommendation of the Committee, Council voted at their March 15, 2016, meeting to concur with advancing the above-referenced proposed regulations to the Environmental Quality Board for action.

Council appreciates the Bureau's cooperation in providing detailed briefings on air regulations. If you have any questions regarding Council's action on the above-referenced regulations, please contact me at 717.705.2693 or by email at [khethering@pa.gov](mailto:khethering@pa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Hetherington Cunfer".

Katherine Hetherington Cunfer  
Acting Executive Director  
Citizens Advisory Council

cc: Kirit Dalal  
John Krueger  
Samantha Harmon  
Susan Hoyle  
Laura Edinger





# Small Business Compliance Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

February 17, 2016

Honorable John Quigley  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Proposed rulemaking amendments for the Repeal of Gasoline Volatility Requirements

Dear Secretary Quigley:

On February 17, 2016, the Small Business Compliance Advisory Committee (Committee) heard a presentation about the proposed rulemaking to repeal 25 Pa. Code Chapter 126, Subchapter C (relating to gasoline volatility requirements) as codified in 25 Pa. Code §§ 126.301–126.303 (relating to compliant fuel requirements; recordkeeping and reporting; and compliance and test methods). Subchapter C was promulgated on November 1, 1997 (27 Pa.B. 5601), as a control measure to reduce emissions of volatile organic compounds to attain and maintain the 1-hour ozone NAAQS in the Pittsburgh-Beaver Valley Area. Subchapter C sets forth requirements for the volatility of gasoline sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The Subchapter C requirements were approved by the U.S. Environmental Protection Agency (EPA) as a State Implementation Plan (SIP) revision on June 8, 1998 (63 FR 31116).

The Department is proposing this repeal to satisfy the requirements of the Air Pollution Control Act (APCA) added by the act of May 14, 2014, P.L. 674, No. 50 (Act 50 of 2014). Act 50 of 2014 requires the Environmental Quality Board to repeal Subchapter C and for the Department to submit a SIP revision to the EPA with a request to remove Subchapter C from the Pennsylvania SIP.

The Committee had no concerns. The Committee voted 7-0-0 (yes; no; abstain) to concur with the Department's recommendation to present the proposed rulemaking amendments to the Environmental Quality Board for consideration.

Sincerely,



Dale I. Kaplan  
Chair

February 17, 2016

cc: Joyce Epps, Director, PA DEP BAQ  
Susan Hoyle, PA DEP BAQ  
Susan Foster, PA DEP BAQ  
Samantha Harmon, PA DEP BAQ  
Nancy Herb, PA DEP BAQ

# Air Quality Technical Advisory Committee

to the Pennsylvania Department of Environmental Protection  
PO Box 8468  
Harrisburg, PA 17105-8468

December 10, 2015

Honorable John Quigley  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Proposed rulemaking amendments for the Repeal of Gasoline Volatility Requirements

Dear Secretary Quigley:

On December 10, 2015, the Air Quality Technical Advisory Committee (Committee) discussed the proposed rulemaking to repeal 25 Pa. Code Chapter 126, Subchapter C (relating to gasoline volatility requirements) as codified in 25 Pa. Code §§ 126.301–126.303 (relating to compliant fuel requirements; recordkeeping and reporting; and compliance and test methods). Subchapter C was promulgated on November 1, 1997 (27 Pa.B. 5601), as a control measure to reduce emissions of volatile organic compounds to attain and maintain the 1-hour ozone NAAQS in the Pittsburgh-Beaver Valley Area. Subchapter C sets forth requirements for the volatility of gasoline sold in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The Subchapter C requirements were approved by the U.S. Environmental Protection Agency (EPA) as a State Implementation Plan (SIP) revision on June 8, 1998 (63 FR 31116).

The Department is proposing this repeal to satisfy the requirements of the Air Pollution Control Act (APCA) added by the act of May 14, 2014, P.L. 674, No. 50 (Act 50 of 2014). Act 50 of 2014 requires the Environmental Quality Board to repeal Subchapter C and for the Department to submit a SIP revision to the EPA with a request to remove Subchapter C from the Pennsylvania SIP.

Some Committee members expressed the concern that there may be lost benefits of additional emission reductions due to the repeal at this time.

The Committee voted 15-5-0 (yes; no; abstain) to concur with the Department's recommendation to present the proposed rulemaking amendments to the Environmental Quality Board for consideration.

Sincerely,



Patrick K. O'Neill Esq.  
Chair





February 10, 2017

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17120

Re: Proposed Rulemaking: Repeal of Gasoline Volatility Requirements (#7-529)

Dear Mr. Sumner:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission (Commission). This proposal is scheduled for publication in the *Pennsylvania Bulletin* on February 25, 2017, with a 62-day public comment period. The Environmental Quality Board (EQB) adopted this proposal on October 18, 2016.

This enclosed rulemaking proposes to repeal 25 Pa. Code Chapter 126, Subchapter C to remove requirements for gasoline with a Reid vapor pressure (RVP) of 7.8 pounds per square inch (psi) or less (low RVP gasoline) to be sold or transferred into or within the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. The Pittsburgh-Beaver Valley Area includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland Counties. Gasoline vapors include volatile organic compound (VOC) emissions. Gasoline formulated with an RVP of 7.8 psi has lower VOC emissions than gasoline formulated at higher RVP levels. The Chapter 126, Subchapter C requirements were approved by the EPA as a revision to the Commonwealth's State Implementation Plan (SIP) on June 8, 1998, as a control measure to attain and maintain the 1-hour Ozone National Ambient Air Quality Standards (NAAQS) in the Pittsburgh-Beaver Valley.

Act 50 of 2014 amended the Air Pollution Control Act to require the Department of Environmental Protection (DEP or Department) to “within sixty (60) days of the effective date of this clause, initiate the process of amending the State implementation plan. Upon approval of a revision which demonstrates continued compliance with Federal national ambient air quality standards through utilization of commensurate emission reductions by the Environmental Protection Agency, the board shall promulgate regulations to repeal the provisions of 25 Pa. Code Ch. 126 Subchapter C (relating to gasoline volatility requirements).”

Repealing the requirements for low RVP gasoline in the Pittsburgh-Beaver Valley Area may result in slightly increased emissions of volatile organic compounds (VOCs) into the atmosphere for the next few years. The VOC emission reduction benefits from requiring low RVP gasoline in the Pittsburgh-Beaver Valley Area steadily decline in future years, decreasing from 1.636 tons



per day in 2017 to 1.329 tons per day by 2030. Therefore, in order to obtain EPA approval of the repeal of Chapter 126, Subchapter C, the Commonwealth is required to ensure that the repeal complies with the Non-Interference Clause, Clean Air Act (CAA) Section 110(l) (42 U.S.C.A. § 7410(l)). The Non-Interference Clause requires that the EPA Administrator not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment of a NAAQS or reasonable further progress in attaining a NAAQS, or any other applicable requirement of the CAA. DEP is proceeding with the demonstration of continued compliance with the applicable NAAQS through the use of commensurate emission reductions separately from this rulemaking action. If published as a final-form regulation in the *Pennsylvania Bulletin*, this proposed rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP.

After EPA SIP approval of the repeal, those currently subject to the regulation will become subject to the Federal rules. The applicable Federal regulations state that gasoline RVP may not exceed 9.0 psi for Pennsylvania year-round unless a SIP revision with a lower RVP requirement is approved by the EPA for a specific area. The Federal regulations also provide a 1.0 psi RVP allowance for gasoline containing ethanol at 9 to 10 volume percent (vol%), applicable to Pennsylvania. After the repeal of the 7.8 RVP requirement, this will result in a maximum allowable RVP of 10.0 psi allowed for gasoline blended with ethanol, in all areas of this Commonwealth, except the Philadelphia area where a different type of gasoline is mandated.

This proposed rulemaking will apply to gasoline refiners, importers, distributors, resellers, terminal owners and operators, carriers, retailers and wholesale purchaser-consumers who sell, exchange, or supply gasoline in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each year. Owners and operators of facilities and infrastructure in the gasoline supply chain, including refineries, bulk gasoline stations and terminals, gasoline merchant wholesalers, gasoline stations with and without convenience stores, tanker trucks, and petroleum pipelines, may benefit from the proposed rulemaking financially and through reduced recordkeeping and reporting obligations. Businesses involved in the sale of gasoline, including gas stations, bulk terminals, and wholesalers, will likely see an economic benefit from the elimination of the requirement to obtain and sell gasoline with an RVP of 7.8 psi or less if the cost savings of blending the special fuel are passed down the chain from the refinery and terminal to the gas station. The consumer may or may not see a cost savings at the pump. Alternatively, businesses involved in gasoline transport and storage will be unlikely to see much impact, if any, as the type of gasoline being transported does not directly affect the business operation. Recordkeeping requirements for all affected entities may be reduced or simplified since the businesses would not have to document the transfer of gasoline with an RVP of 7.8 psi.

The Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) were briefed on the proposed rulemaking on December 10, 2015, and February 17, 2016, respectively. AQTAC voted 15-5-0 and SBCAC voted unanimously to concur with DEP's recommendation to move the proposed rulemaking forward to the EQB for consideration. In addition, the proposed rulemaking was presented to the Citizens Advisory Council (CAC) Policy and Regulatory Oversight (PRO) Committee on March 2, 2016. On the recommendation of the PRO Committee, on March 15, 2016, the CAC also concurred with DEP's recommendation to forward the proposed rulemaking to the EQB.



The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey to the agency its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions made by the Commission, as well as the Committees and public commentators, prior to final adoption of this rulemaking.

Please contact me by e-mail at ledinger@pa.gov or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,



Laura Edinger  
Regulatory Coordinator

Enclosures



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
THE REGULATORY REVIEW ACT

I.D. NUMBER: 7-529 Repeal of Gasoline Volatility Requirements

SUBJECT:

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

2017 FRD LU PH 4:06

RECEIVED  
RRC

TYPE OF REGULATION

- Proposed Regulation  
 Final Regulation  
 Final Regulation with Notice of Proposed Rulemaking Omitted  
 120-day Emergency Certification of the Attorney General  
 120-day Emergency Certification of the Governor  
 Delivery of Tolled Regulation  
a.  With Revisions      b.  Without Revisions

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

2/10/17 

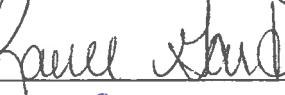
Majority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Representative John Maher

2/10/17 

Minority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Representative Mike Carroll

2/10/17 

Majority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Senator Gene Yaw

2/10/17 

Minority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Senator John Judychak

2/10/17 

INDEPENDENT REGULATORY REVIEW COMMISSION  
David Sumner

ATTORNEY GENERAL (for Final Omitted only)

2/10/17 

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

