

Comments of the Independent Regulatory Review Commission



Environmental Quality Board Regulation #7-529 (IRRC #3162)

Gasoline Volatility Requirements

May 31, 2017

We submit for your consideration the following comments on the proposed rulemaking published in the February 25, 2017 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

Whether the regulation is consistent with the intent of the General Assembly; Possible conflict with or duplication of statutes; Protection of the public health, safety and welfare; Implementation procedures.

Act 50 of 2014 amended the Air Pollution Control Act (35 P.S. §§ 4001 – 4106) to require the Department of Environmental Protection 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). 35 P.S. § 4004(18.3).

This proposed rulemaking implements Act 50 of 2014 by deleting 25 Pa. Code Chapter 126, Subchapter C and four related definitions from 25 Pa. Code § 121.1, relating to definitions.

The Preamble to this proposal states that if the rulemaking is published as a final-form rulemaking, it will be submitted to the Environmental Protection Agency (EPA) for approval as a revision to the Commonwealth's State Implementation Plan (SIP). EQB's plan for implementation of Act 50 would appear to conflict with the legislative directive to promulgate the required regulations after approval of revisions to the Commonwealth's SIP by EPA.

Why is EQB proceeding with this proposal prior to securing approval of the Commonwealth's SIP revisions from EPA? How is this plan for implementation consistent with the intent of the General Assembly? If this proposal is published as a final-form rulemaking and the EPA does not approve revisions to the Commonwealth's SIP, would the health, safety and welfare of the citizens of the Commonwealth be adequately protected? In the Preamble to the final-form rulemaking, we ask EQB to provide an explanation for its implementation plan and why it believes it is consistent with Act 50.