

Comments of the Independent Regulatory Review Commission



Environmental Quality Board Regulation #7-546 (IRRC #3238)

Revision of the Maximum Allowable Sulfur Content Limit for No. 2 and Light Commercial Fuel Oil

October 9, 2019

We submit for your consideration the following comments on the proposed rulemaking published in the July 6, 2019 *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 (Board) to respond to all comments received from us or any other source.

1. Implementation procedures.

This proposed regulation lowers the maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil from the current limit of 500 parts per million (ppm) to 15 ppm. The Board stated in Section 29 of the Regulatory Analysis Form (RAF) that the expected effective date of the final-form regulation is the first quarter of 2020, with an implementation date 60 days following final-form publication of the regulation in the *Pennsylvania Bulletin*.

Two commentators submitted comments supporting the proposed reduction of sulfur content while expressing concern with the effective and implementation dates. These commentators explained that the fuel oil supply chain will need to cycle through the existing inventory of No. 2 and lighter commercial fuel oil at the current sulfur content limit of 500 ppm within 60 days of an unknown date. They state that the transition from 500 ppm to 15 ppm will require sufficient notice to account for seasonal demands.

Did the Board consider a fixed implementation date to allow the regulated community to plan for the transition to the lower sulfur content limit? We ask the Board to explain in the preamble to the final-form regulation the reasonableness of a 60-day implementation period based on the effective date of the final-form regulation. Further, we ask the Board to work with the regulated community to ensure that the implementation procedures for the final-form regulation will allow the fuel oil transportation system to efficiently meet the lower sulfur limit for No. 2 and lighter commercial fuel oil with minimal fiscal impact.

2. Whether a less costly or less intrusive alternative method of achieving the goal of the regulation has been considered for regulations impacting small businesses.

Senator Scott Hutchinson submitted a comment opposing the proposed regulation, noting that the immediate reduction in sulfur content is “drastic and overly burdensome, especially on a small refinery that lacks the resources to invest in plant upgrades to meet the new standards.” We ask the Board to explain in the preamble to the final-form regulation whether a less costly or less intrusive alternative method of achieving the goal of the regulation was considered for small businesses in the fuel oil supply chain impacted by this regulation.