

Executive Summary
Amendments to 25 Pa. Code Chapters 121 and 127
Additional Requirements for Control of Fine Particulate Matter
in the Nonattainment New Source Review Program

The Department of Environmental Protection (Department) proposes to amend Chapters 121 (relating to general provisions) and 127, Subchapters E and H (relating to new source review and general plan approvals and operating permits, respectively) to add requirements for the control of fine particulate matter.

Purpose of the Proposed Rulemaking

On August 24, 2016, the U.S. Environmental Protection Agency (EPA) published a final rule that requires states, such as Pennsylvania, with nonattainment areas for particulate matter less than or equal to 2.5 micrometers in diameter (PM_{2.5}) to amend their new source review (NSR) regulations to include emissions of volatile organic compounds (VOC) and ammonia as PM_{2.5} precursors. The Federal regulation at 40 CFR 51.1003(a) requires all moderate nonattainment area elements to be submitted to the EPA for State Implementation Plan (SIP) approval by no later than 18 months from the date of designation. The designations were effective on April 15, 2015. Accordingly, the Commonwealth's SIP was due to EPA for SIP approval on October 15, 2016.

On April 6, 2018, EPA published a notice of finding of failure to submit SIP revisions for the 2012 annual PM_{2.5} NAAQS, effective May 7, 2018. See 83 FR 14759. In accordance with section 179 of the CAA (42 U.S.C.A. § 7509), a mandatory 18-month sanction clock began on May 7, 2018. To stop the sanction clock, the Commonwealth will need to submit this proposed rulemaking to EPA, for EPA's technical and administrative review, by November 7, 2019.

This proposed rulemaking would amend 25 Pa. Code Chapters 121 and 127, Subchapter E to incorporate Federal requirements regulating precursor emissions to the formation of fine particulate matter. The proposed rulemaking would also revise the application submission options for plan approvals and operating permits for portable sources in 25 Pa. Code § 127.641(c).

This proposed rulemaking will be submitted to EPA for approval as a revision to the Commonwealth's SIP following promulgation of the final-form regulation.

Summary of the Proposed Rulemaking

The proposed rulemaking would amend 25 Pa. Code:

- § 121.1 to amend the definitions for the following existing terms to include PM_{2.5} precursors: "major facility," "regulated NSR pollutant" and "significant."
- § 127.202 to include references to PM_{2.5} precursors. In addition, other minor editorial changes are proposed for this section.
- § 127.203 to include annual and 24-hour significance levels for PM_{2.5}.

- § 127.210 to include offset ratios for VOCs and ammonia as PM_{2.5} precursors.
- § 127.641 to amend the delivery method options for the submittal of applications for general plan approval and operating permits for portable sources.

Affected Parties

This proposed rulemaking would apply to owners and operators of new or modified major facilities with emissions of VOCs or ammonia as PM_{2.5} precursors located within PM_{2.5} nonattainment areas or that are located within PM_{2.5} attainment areas and would have a significant impact to a PM_{2.5} nonattainment area. It is not expected that any facilities within PM_{2.5} attainment areas will have a significant impact on PM_{2.5} nonattainment areas. No new facilities are known to be constructed, or planned to be constructed, within PM_{2.5} nonattainment areas that will emit major amounts of VOCs or ammonia. There are 17 existing facilities, in Allegheny, Delaware and Lebanon Counties, that currently have the potential to emit 100 tons per year (TPY) or greater of emissions of VOCs, ammonia, or both and that will only become subject to the proposed regulation if there is a major modification for VOCs, ammonia, or both at the facility. The Department is not aware of any upcoming major modifications at these facilities.

In addition, owners and operators of portable sources would be affected when submitting applications to the Department for a general plan approval or operating permit. Currently, these applications are required to be either hand delivered or transmitted by certified mail return receipt requested. The proposed rulemaking would remove the language on specific requirements and replace it with the ability to submit applications to the Department by any means.

Advisory Groups

The proposed rulemaking was presented to the Small Business Compliance Advisory Committee (SBCAC) on July 25, 2018, and to the Air Quality Technical Advisory Committee (AQTAC) on August 2, 2018. Neither committee expressed concerns, and both committees voted unanimously to concur with the Department's recommendation to present the proposed rulemaking to the Board for consideration for publication as a proposed rulemaking.

On August 21, 2018, the proposed rulemaking was presented to the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight (PRO) Committee. The PRO Committee requested that clarity be provided in 25 Pa. Code § 121.1 under the definition of "major facility" to indicate that the proposed rulemaking language of "Seventy TPY of PM_{2.5}, NO_x, SO₂, VOCs or ammonia in a serious nonattainment area for PM_{2.5}" means 70 TPY for each pollutant individually and not combined. The Department agreed and revised the definition to provide the requested clarification. On September 18, 2018, the full CAC concurred with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration.

Public Comments and Board Hearings

The Department recommends a 60-day public comment period on the proposed rulemaking and an opportunity for three public hearings at DEP regional offices in Norristown, Harrisburg and Pittsburgh, PA.