

Clean Air Interstate Rule Executive Summary

Amendments to 25 Pa. Code Chapters 121, 129 and 145

The Department of Environmental Protection (Department) recommends amendments to 25 Pa. Code Chapters 121, 129 and 145 (relating to general provisions; standards for sources; and interstate pollution transport reduction) to revise § 121.1 (relating to definitions), §§ 129.201, 129.202 and 129.204 (relating to boilers; stationary combustion turbines; and emission accountability) and Chapter 145, Subchapters A, B and C (relating to NO_x budget trading program; emissions of NO_x from stationary internal combustion engines; and emissions of NO_x from cement manufacturing) and to add Chapter 145, Subchapter D (relating to CAIR NO_x and SO₂ trading programs).

Summary of Final Rulemaking

The amendments establish the requirements for implementing and enforcing the Clean Air Interstate Rule (CAIR) promulgated by the United States Environmental Protection Agency (EPA) on May 12, 2005, as amended. The CAIR requires 28 states (including Pennsylvania) and the District of Columbia to adopt and submit revisions to their State Implementation Plans (SIP). The SIP revisions are required under Clean Air Act (CAA) section 110(a)(2)(D) to reduce SO₂ and NO_x emissions that significantly contribute to nonattainment of the fine particulate matter (PM_{2.5}) and eight-hour ozone National Ambient Air Quality Standards (NAAQS) in downwind states. Each state may independently determine which emissions sources to subject to controls and which control measures to adopt. The CAIR also contains model rules, most of which the final-form rulemaking incorporates by reference.

Pennsylvania's final-form rulemaking establishes general provisions to achieve reductions from electric generating units (EGU) currently covered by the NO_x Budget Trading Program in Chapter 145, Subchapter A. The NO_x reduction requirements are similar to the existing requirements of the NO_x Budget Trading Program and contain provisions relating to designated representatives of covered units, permitting, allowances, monitoring and opting-in. These amendments establish three CAIR trading programs, which cover annual NO_x emissions, ozone season NO_x emissions and annual SO₂ emissions, respectively. Each of the three proposed CAIR trading programs contains similar provisions.

The amendments make minor changes to the requirements that apply to the owners and operators of small sources of NO_x in the five-county Philadelphia area that are subject to NO_x emissions limits under 25 Pa. Code §§ 129.201 through 129.203 (relating to boilers; stationary combustion turbines; and stationary internal combustion engines). An amendment to 25 Pa. Code § 129.204 would require the owners and operators of these sources to surrender CAIR NO_x Ozone Season and CAIR NO_x annual allowances rather than NO_x Budget Trading Program allowances if their NO_x emissions exceeded their NO_x emission limits, beginning in 2009. A similar change from proposed to final rulemaking is included in § 145.113 (relating to standard requirements) for NO_x emissions from large stationary internal combustion engines that are not

subject to the NOx Budget Trading Program and in § 145.143 (relating to standard requirements) for NOx emissions from Portland cement kilns. An additional change that is carried over from the proposed rulemaking to final rulemaking clarifies the alternative calculation and recordkeeping procedures for the calculation of actual emissions from small sources of NOx in the five-county Philadelphia area. This amendment is based on experience in implementation of this provision.

A new section, § 145.8 (relating to transition to CAIR NOx trading programs), is included in the NOx Budget Trading Program to address the transitioning of NOx allowance allocations, NOx emission limitations and NOx monitoring requirements and to address certain compliance issues. This section has been modified in the final-form regulation to include (and further amend) the provisions that had been proposed in § 145.101 to address the transition for non-EGUs.

Non-EGUs that are subject to the NOx Budget Trading Program and EGUs that are exempt from CAIR but covered by the NOx Budget Trading Program are addressed in subsection (d) of § 145.8. These sources are not required to be included in the CAIR NOx trading programs, but Federal regulations require that their NOx emissions continue to be restricted. The amendment limits their emissions by providing each unit a fair share of the NOx SIP Call budget and provides further flexibility by allowing any exceedances of the limits to be satisfied through allowance surrender. Allowance surrender will only be required if the statewide NOx emissions from these units exceed the statewide NOx cap of the NOx Budget Trading Program.

In April of 2005, in response to litigation, EPA issued national findings that states failed to submit SIP revisions to address interstate transport NOx and SO₂ with respect to the eight-hour ozone and PM_{2.5} NAAQS by the July 2000 deadline. The findings triggered a two-year clock for the EPA to issue Federal Implementation Plans (FIPs) under section 110(c)(1) of the CAA to address the SIP requirements concerning prevention of interstate transport of air pollutants under section 110(a)(2)(D) of the CAA. On March 15, 2006, the EPA signed a final rule satisfying the FIP requirement and requiring the owners and operators of covered units (generally all stationary, fossil-fuel-fired boilers, combustion turbines, or other stationary, fossil-fuel-fired combustion devices serving generators of 25 megawatts or greater) in Pennsylvania to comply with the CAIR NOx and SO₂ trading programs in the absence of an approved state program satisfying the CAIR SIP call.

Purpose of the Final-Form Regulation

The purpose of this final rulemaking is to establish a program to limit NOx and SO₂ emissions from electric generating facilities of 25 megawatts or greater. This rulemaking provides for the allocation of NOx allowances to certain renewable energy and energy efficiency units and to cogeneration units that did not receive SO₂ allowances under the Federal Acid Rain Program. The CAIR NOx trading programs will supercede the existing NOx Budget Trading Program and CAIR FIP. The proposed amendments are reasonably necessary to achieve and maintain the NAAQS, including the 8-hour ozone and fine particulate standards, to satisfy

related Federal Clean Air Act requirements and to avoid the imposition of sanctions under the Federal Clean Air Act.

Affected Parties

The proposed amendments will affect owners and operators of major air contamination sources, including electric generating and cogeneration units.

Advisory Groups

The Air Quality Technical Advisory Committee (AQTAC) reviewed the final-form rulemaking revisions on July 26, 2007, and September 20, 2007. On September 20, 2007, the AQTAC concurred with the Department's recommendation that the Environmental Quality Board (Board) approve the final-form rulemaking. In addition, the final-form rulemaking was discussed with the Air Committee of the Citizens Advisory Council on October 15, 2007.

Public Comments and Environmental Quality Board

The proposed regulation was published in the *Pennsylvania Bulletin* on April 28, 2007 (32 Pa.B. 5178). The Board held a 60-day public comment period closing on July 2, 2007.