

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 127]

Additional Requirements for Control of Fine Particulate Matter in the Nonattainment New Source Review Program

The Environmental Quality Board (Board) 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) to read as set forth in Annex A. This proposed rulemaking would incorporate recently promulgated Federal requirements for the regulation of volatile organic compounds (VOC) and ammonia as precursor emissions to the formation of fine particulate matter, which is particulate matter less than and equal to 2.5 micrometers in diameter (PM_{2.5}). This proposed rulemaking would also revise the application submission options for the use of general plan approvals and operating permits for portable sources in § 127.641(c) (relating to application for use of plan approvals and operating permits for portable sources).

This proposed rulemaking is necessary to address a mandatory 18-month sanction clock, in accordance with section 179 of the Clean Air Act (CAA) (42 U.S.C.A. § 7509), following the United States Environmental Protection Agency's (EPA) determination that the Commonwealth has not met its obligations for the nonattainment new source review (NNSR) permit program, because its existing NNSR program does not include emissions of VOC and ammonia as PM_{2.5} precursors. To stop the sanction clock, the Commonwealth will need to submit this proposed rulemaking to the EPA, for the EPA's technical and administrative review, by November 7, 2019.

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

This proposed rulemaking is given under Board order at its meeting of December 18, 2018.

A. Effective Date

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

B. Contact Persons

For further information, contact Virendra Trivedi, Chief, Division of Permits, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Elizabeth Davis, Assistant Counsel, 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 (select "Public Participation," then "Environmental Quality Board (EQB)").

C. Statutory Authority

This 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 also grants the Board the authority to adopt rules and regulations designed to implement the provisions of the CAA (42 U.S.C.A. §§ 7401—7671q).

D. Background and Purpose

On July 18, 1997, the EPA revised the National Ambient Air Quality Standard (NAAQS) for particulate matter (PM) to add new standards for fine particles, using PM_{2.5} as the indicator. The EPA set the health-based (primary) and welfare-based (secondary) PM_{2.5} annual standard at a level of 15 micrograms per cubic meter (µg/m³) and the 24-hour standard at a level of 65 µg/m³. See 62 FR 38652 (July 18, 1997). Subsequently, on October 17, 2006, the EPA revised the primary and secondary 24-hour NAAQS for PM_{2.5} to 35 µg/m³ from 65 µg/m³. See 71 FR 61236 (October 17, 2006). On January 15, 2013, the EPA lowered the health-based (primary) PM_{2.5} annual standard from 15 µg/m³ to 12 µg/m³. See 78 FR 3086 (January 15, 2013).

On January 15, 2015, the EPA designated five areas in this Commonwealth as moderate nonattainment areas for the 2012 annual PM_{2.5} NAAQS, based on air quality monitoring data from 2011—2013. See 80 FR 2206 (January 15, 2015). The nonattainment areas were the Allegheny County Area, Allentown Area (Lehigh and Northampton Counties), Delaware County Area, Johnstown Area (Cambria County and partial Indiana County) and Lebanon County Area.

On April 7, 2015, the EPA issued updated designations, based on complete, quality-assured and certified monitoring data from 2012—2014, which reduced the number of nonattainment areas in this Commonwealth to three: the Allegheny County Area, the Delaware County Area and the Lebanon County Area. See 80 FR 18535, 18549 (April 7, 2015).

The EPA subsequently determined that two of these areas—Delaware and Lebanon—attained the 2012 annual PM_{2.5} NAAQS based on complete, quality-assured and certified air quality data that shows that the area is monitoring attainment (Clean Data Determination). See 81 FR 89868 (December 13, 2016) and 82 FR 50851 (November 2, 2017) respectively. These final actions suspended the requirements for the Commonwealth to submit an attainment demonstration and associated reasonably available control measures, reasonable further progress plans, contingency measures and other planning SIP revisions related to the areas' attainment of the 2012 annual PM_{2.5} NAAQS for so long as these areas continue to attain the 2012 annual PM_{2.5} NAAQS.

Section 172(c)(3) of the CAA (42 U.S.C.A. § 7502(c)(3)) requires a comprehensive emissions inventory, which is not suspended by the Clean Data Determinations. The Department submitted emissions inventories for the Delaware County and Lebanon County nonattainment areas on May 5, 2017, and September 25, 2017, respectively. On July 3, 2018, the EPA published a final rule that approved both Delaware County and Lebanon County emissions inventories. See 83 FR 31064 (July 3, 2018).

In August 2016, the EPA published its SIP Requirements Rule, which requires states with nonattainment areas for $PM_{2.5}$ to amend their NNSR regulations to include emissions of VOC and ammonia as $PM_{2.5}$ precursors. See Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements, 81 FR 58010 (August 24, 2016). Section 189(a)(2)(B) of the CAA (42 U.S.C.A. § 7513a(a)(2)(B)) and its implementing regulations at 40 CFR 51.1003(a) (relating to attainment plan due dates and submission requirements) requires all moderate nonattainment area elements to be submitted to the EPA for SIP approval no later than 18 months from the date of designation. The designations were effective on April 15, 2015. See 80 FR 2206, 18535 (January 15, 2015) and (April 7, 2015). Accordingly, the required elements were due to the EPA for SIP approval on October 15, 2016. The Clean Data Determinations for the Delaware and Lebanon County Areas do not relieve the Commonwealth of its responsibilities to develop this SIP revision for the NNSR permit program.

This proposed rulemaking amends the § 121.1 (relating to definitions) definition of “regulated NSR pollutant” and the Chapter 127 Subchapter E NNSR permitting regulations to include the $PM_{2.5}$ precursor emissions provisions under the SIP Requirements Rule.

In May 2008, the EPA issued its Implementation Rule which defines a major facility as having the potential to emit: 100 tons per year (TPY) of emissions of VOC or ammonia, or both, in a moderate $PM_{2.5}$ nonattainment area and 70 TPY of VOC or ammonia emissions, or both, in a serious $PM_{2.5}$ nonattainment area. See Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$), 73 FR 28321 (May 16, 2008). The EPA’s Implementation Rule also established a VOC significance threshold of 40 TPY. The Implementation Rule requires states to determine the ammonia significance threshold and the VOC and ammonia offset ratio. The Clean Data Determinations for the Delaware and Lebanon County Areas do not relieve the Commonwealth of its responsibilities to develop this SIP revision for the NNSR permit program.

This proposed rulemaking amends the § 121.1 definitions of “major facility” and “significant” and the Chapter 127 Subchapter E NNSR permitting regulations related to the VOC and ammonia offset ratio provisions under the Implementation Rule. On November 4, 2016, the South Coast Air Quality Management District (SCAQMD) amended its NNSR program to include ammonia and VOC as precursors to $PM_{2.5}$ (SCAQMD Rule 1325). As part of that rulemaking, SCAQMD added a significance threshold for ammonia of 40 TPY, which is the same significance threshold in this proposed rulemaking. SCAQMD also included an offset ratio for VOC and ammonia of 1:1, which is the same offset ratio in this proposed rulemaking. On May 8, 2017, the California Air Resources Board submitted a SIP revision to the EPA with the amendments to SCAQMD Rule 1325. On November 30, 2018, the EPA issued a conditional approval of the SIP revision. See 83 FR 61551 (November 30, 2018).

The Department believes that SCAQMD’s technical rationale, that 40 TPY for ammonia is conservative because NO_x emissions with an established 40 TPY threshold have a greater influence in the formation of secondary ambient $PM_{2.5}$ than ammonia emissions, is technically sound. See Proposed Amended Rule 1302—Definitions and Proposed Amended Rule 1325—Federal $PM_{2.5}$ New Source Review Program, Final Staff Report,

November 2016, Mike Laybourn, Air Quality Specialist, South Coast Air Quality Management District. The Department adopts that rationale as its own for this proposed rulemaking.

This proposed rulemaking includes a significant impact level (SIL) of $1.2 \mu\text{g}/\text{m}^3$ for 24-hour $PM_{2.5}$ and $0.2 \mu\text{g}/\text{m}^3$ for annual $PM_{2.5}$ which conform with the EPA guidance document for SILs entitled, Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program, EPA memorandum, April 17, 2018, Peter Tsigotis, Director, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

The addition of $PM_{2.5}$ SILs will mitigate the effects of $PM_{2.5}$ in nonattainment areas affected by $PM_{2.5}$ emissions from attainment areas. A SIL defines the level of ambient air impact that is considered a “significant contribution” to air quality. If the modeled maximum ambient impacts of a new source or modification are below the SILs, the source: (1) is presumed not to cause or contribute significantly to a Prevention of Significant Deterioration (PSD) increment or NAAQS violation, and (2) is not required to perform the multiple-source, cumulative impacts assessments that are otherwise required under PSD.

On April 6, 2018, the EPA published a notice of finding of failure to submit (FFS) SIP revisions for the 2012 annual $PM_{2.5}$ NAAQS, effective May 7, 2018. See 83 FR 14759 (April 6, 2018). The EPA’s FFS included a determination that the Commonwealth has not met its obligations for the NNSR permit program for Allegheny, Delaware and Lebanon Counties because emissions of VOCs and ammonia are not currently regulated as $PM_{2.5}$ precursors. In addition, the FFS included a determination that the following required SIP elements were not submitted for Allegheny County: emissions inventory, control strategy, attainment demonstration, reasonable further progress, qualitative milestones and contingency measures. Because the Allegheny County Health Department is an approved local air pollution control agency under section 12(b) of the APCA (35 P.S. § 4012(b)), it is developing its own SIP revision to address these required SIP elements which the Department will submit to the EPA. In accordance with section 179 of the CAA, a mandatory 18-month sanction clock began on May 7, 2018, the effective date of the FFS.

Therefore, to stop the sanction clock and correct the deficiency that the Commonwealth has not met its obligations for the NNSR permit program, because the Commonwealth’s existing NNSR program does not include VOC and ammonia as $PM_{2.5}$ precursors, one of the following must occur by November 7, 2019:

- 1) The Commonwealth submits an updated NNSR regulation that addresses VOC and ammonia as $PM_{2.5}$ precursors as a SIP revision, which the EPA determines to be technically and administratively complete; or

- 2) The Commonwealth submits a SIP revision for each nonattainment area, and the EPA fully approves and redesignates the area from nonattainment to attainment. Once an area is redesignated as attainment, NNSR would no longer apply.

The Department is currently working on both options to correct the deficiency to ensure that the sanction clock stops by November 7, 2019. Section 179 of the CAA authorizes the EPA to use two types of sanctions: 1) imposing what are called “2:1 offsets” on new or modified sources of emissions; and 2) withholding of certain Fed-

eral highway funds. Under section 179 of the CAA and its implementing regulations, the Administrator first imposes “2:1 offsets” sanctions for new or modified major stationary sources in the nonattainment area, and then, if the deficiency has not been corrected within 6 months, also applies Federal highway funding sanctions. See 40 CFR 52.31 (relating to selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act). Therefore, if the deficiency is not corrected, the EPA will impose mandatory “2:1 offsets” sanctions beginning November 7, 2019, and highway fund sanctions beginning May 7, 2020. The Commonwealth receives approximately \$1.7 billion in Federal transportation funding annually, which would be at risk if the Commonwealth does not implement one of the previously listed options.

This proposed rulemaking would also revise the application submission options for the use of general plan approvals and operating permits for portable sources in § 127.641(c). Currently applications may only be delivered through hand delivery or certified mail return receipt requested. The proposed change would remove these options thereby allowing delivery by any means.

This proposed rulemaking would help assure that the citizens of this Commonwealth benefit from reduced emissions of PM_{2.5} and PM_{2.5} precursors from regulated sources. Attaining and maintaining levels of PM_{2.5} below the health-based and welfare-based NAAQS is important to reduce premature mortality and other health and environmental effects associated with PM_{2.5} exposure.

This proposed rulemaking was presented to the Small Business Compliance Advisory Committee on July 25, 2018, and to the Air Quality Technical Advisory Committee on August 2, 2018. Neither committee expressed concerns, and both committees voted unanimously to concur with the Department’s recommendation to present this proposed rulemaking to the Board for consideration.

On August 21, 2018, this 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 § 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 this proposed rulemaking forward to the Board for consideration.

E. Summary of Regulatory Requirements

This proposed rulemaking would amend the existing definitions of “major facility,” “regulated NSR pollutant” and “significant” under § 121.1 to include the requirements for PM_{2.5} precursors of VOC and ammonia.

Section 127.202 (relating to effective date) is proposed to be amended to include references to PM_{2.5} precursors. In addition, other minor editorial changes are proposed for this section.

Section 127.203 (relating to facilities subject to special permit requirements) is proposed to be amended to include annual and 24-hour significance levels for PM_{2.5}.

Section 127.210 (relating to offset ratios) is proposed to be amended to include offset ratios for VOCs and ammonia as PM_{2.5} precursors.

This proposed rulemaking would amend Chapter 127, Subchapter H to provide the regulated community with flexibility in submitting applications to use portable source general permits. Currently, § 127.641(c) requires these applications to be either hand delivered or transmitted by certified mail return receipt requested. The proposed amendment would remove these limited options and allow submission by any means.

F. Benefits, Costs and Compliance

Benefits

As noted in Section D of this preamble, the citizens of this Commonwealth will benefit from reduced emissions of PM_{2.5} and PM_{2.5} precursors from regulated sources. Attaining and maintaining levels of PM_{2.5} below the health-based and welfare-based NAAQS is important to reduce premature mortality and other health and environmental effects associated with PM_{2.5} exposure. Reductions in ambient levels of PM_{2.5} would also promote improved animal health and welfare, improved visibility, decreased soiling and materials damage, and decreased damage to plants and trees. Also, regarding portable source general plan approvals and operating permits, allowing for additional flexibility would provide additional options for the regulated community to submit applications that may be faster and less expensive than what is currently allowed.

Compliance costs

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. The significant impact is determined by the proposed SIL of 1.2 µg/m³ for 24-hour PM_{2.5} and 0.2 µg/m³ for annual PM_{2.5}. 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 facilities that have the potential to emit 100 TPY or greater of emissions of VOCs, ammonia, or both. The owners and operators of these facilities would be subject to this proposed rulemaking if major modifications occur at the affected facilities 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. This proposed rulemaking would remove the language on specific requirements and replace it with the ability to submit applications to the Department by any means.

Compliance assistance plan

The Department plans to educate and assist the public and regulated community in understanding the proposed requirements and how to comply with them. This would be accomplished through the Department’s ongoing compliance assistance program. The Department would also work with the Small Business Assistance Program to aid the owners and operators of facilities less able to handle matters with their in-house staff.

Paperwork requirements

There are no additional paperwork requirements associated with this proposed rulemaking with which industry would need to comply.

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.

This proposed rulemaking would help assure that the citizens of this Commonwealth would benefit from reduced emissions of PM_{2.5} and PM_{2.5} precursors from regulated sources. Attaining and maintaining levels of PM_{2.5} below the health-based and welfare-based NAAQS is important to reduce premature mortality and other health and environmental effects associated with PM_{2.5} exposure. Reduced levels of PM_{2.5} would promote improved visibility, decreased soiling and decreased materials damage.

H. Sunset Review

The Board is not establishing a sunset date for this proposed rulemaking, since it is needed for the Department to carry out its statutory authority. The Department will closely monitor this proposed rulemaking after promulgation as a final-form rulemaking in the *Pennsylvania Bulletin* for its effectiveness and recommend updates to the Board as necessary.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 25, 2019, 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 comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) 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 to the Board written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by May 20, 2019.

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 Board's online comment system at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of this 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, 16th 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 p.m. on the following dates:

April 16, 2019 Department of Environmental Protection
Southcentral Regional Office
Susquehanna Room A
909 Elmerton Avenue
Harrisburg, PA 17110

April 17, 2019 Department of Environmental Protection
Southwest Regional Office
Waterfront Conference Room A
400 Waterfront Drive
Pittsburgh, PA 15222

April 18, 2019 Department of Environmental Protection
Southeast Regional Office
Delaware River Room
2 East Main Street
Norristown, PA 19401

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 5 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,
Chairperson

Fiscal Note: 7-551. No fiscal impact; (8) recommends adoption.

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:

* * * * *

Major facility—

(i) A facility which emits or has the potential to emit 100 TPY or more of a regulated NSR pollutant, except that lower emissions thresholds apply as follows:

(A) Fifty TPY of VOCs in a serious nonattainment area for ozone.

(B) Fifty TPY of VOCs in an area within an ozone transport region except for a severe or extreme nonattainment area for ozone.

(C) Twenty-five TPY of VOCs in a severe nonattainment area for ozone.

(D) Ten TPY of VOCs in an extreme nonattainment area for ozone.

(E) Seventy TPY of PM-10 in a serious nonattainment area for PM-10.

(F) Fifty TPY of CO in a serious nonattainment area for CO.

(G) Seventy TPY of PM_{2.5} in a serious nonattainment area for PM_{2.5}.

(H) Seventy TPY of NO_x in a serious nonattainment area for PM_{2.5}.

(I) Seventy TPY of SO₂ in a serious nonattainment area for PM_{2.5}.

(J) Seventy TPY of VOCs in a serious nonattainment area for PM_{2.5}.

(K) Seventy TPY of ammonia in a serious nonattainment area for PM_{2.5}.

(ii) For the purposes of applying the requirements of Chapter 127, Subchapter E to the owner or operator of a facility located in an ozone nonattainment area or in an ozone transport region which emits or has the potential to emit NO_x, as follows:

(A) One hundred TPY or more of NO_x in an ozone nonattainment area classified as marginal, basic or moderate.

(B) One hundred TPY or more of NO_x in an ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when the area is located in an ozone transport region.

(C) One hundred TPY or more of NO_x in an area designated under section 107(d) of the Clean Air Act (42 U.S.C.A. § 7407(d)) as attainment or unclassifiable for ozone that is located in an ozone transport region.

(D) Fifty TPY or more of NO_x in a serious nonattainment area for ozone.

(E) Twenty-five TPY or more of NO_x in a severe nonattainment area for ozone.

(F) Ten TPY or more of NO_x in an extreme nonattainment area for ozone.

(iii) A physical change that occurs at a facility which does not exceed the major facility thresholds specified in Chapter 127, Subchapter E is considered a major facility if the change constitutes a major facility by itself.

(iv) A facility which is major for VOCs or NO_x is considered major for ozone.

(v) Notwithstanding the provisions under subparagraphs (i) and (ii), a facility which emits or has the potential to emit 25 TPY or more of NO_x or VOC and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

* * * * *

Regulated NSR pollutant—

(i) NO_x or VOCs.

(ii) A pollutant for which the EPA has promulgated a NAAQS.

(iii) A pollutant that is a constituent or precursor of a pollutant listed under subparagraph (i) or (ii), if the constituent or precursor pollutant may only be regulated under NSR as part of regulation of the pollutant listed under subparagraph (i) or (ii). Precursors identified by the Administrator of the EPA for purposes of NSR are the following:

(A) VOCs and NO_x are precursors to ozone in all ozone nonattainment areas.

(B) SO₂ [is a precursor], VOCs and ammonia are precursors to PM_{2.5} in all PM_{2.5} nonattainment areas.

(C) Nitrogen oxides are presumed to be precursors to PM_{2.5} in PM_{2.5} nonattainment areas unless the Department demonstrates to the satisfaction of the Administrator of the EPA or the Administrator of the EPA determines that NO_x emissions from a source in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(iv) PM_{2.5} and PM-10 emissions, including gaseous emissions from a facility or activity that condense to form particulate matter at ambient temperatures, as specified in § 127.201(g) (relating to general requirements).

* * * * *

Significant—

(i) In reference to a net emissions increase or the potential of a facility to emit one of the following pollutants at a rate of emissions that would equal or exceed the following emissions rates except as specified in subparagraphs (ii)—(v):

<i>Pollutant</i>	<i>Emissions Rate</i>
Carbon monoxide (CO):	100 TPY
Nitrogen oxides (NO _x):	40 TPY
Sulfur oxides (SO _x):	40 TPY
Ozone:	40 TPY of VOCs or 40 TPY of NO _x
Lead:	0.6 TPY
PM-10:	15 TPY
PM _{2.5} :	10 TPY of PM _{2.5} ; 40 TPY of SO ₂ ; 40 TPY of VOCs; 40 TPY of ammonia; 40 TPY of NO _x , unless the Department demonstrates to the EPA's satisfaction or the EPA determines that the NO _x emissions are not a significant contributor to PM _{2.5} nonattainment in the area.

(ii) The emissions rate that is significant for VOCs in a serious or severe ozone nonattainment area is 25 TPY.

(iii) For purposes of applying Chapter 127, Subchapter E to the owner or operator of modifications at a major facility located in an ozone nonattainment area or in an ozone transport region that emits or has the potential to emit NO_x, the emissions rate that is significant and other requirements for VOCs in subparagraphs (i) and (ii) apply to NO_x emissions.

(iv) The emissions rate that is significant for CO in a serious nonattainment area is 50 TPY if the EPA has

determined that the affected facility contributes significantly to CO levels in that area.

(v) The emissions rate that is significant for VOCs in an extreme nonattainment area for ozone is any amount above zero.

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CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES

Subchapter E. NEW SOURCE REVIEW

§ 127.202. Effective date.

(a) The special permit requirements in this subchapter apply to an owner or operator of a facility to which a plan approval [**will be**] **is** issued by the Department after May 19, 2007, except **the special permit requirements for precursors to PM_{2.5}**, which [**will**] apply **as follows:**

- (1) **NO_x and SO₂**, after September 3, 2011.
- (2) **VOCs and ammonia after**

(*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking when published as a final-form rulemaking.)

(b) For SO_x, PM_{2.5}, PM-10, lead and CO, this subchapter applies until a given nonattainment area is redesignated as an unclassifiable or attainment area. After a redesignation, special permit conditions remain effective until the Department approves a permit modification request and modifies the permit.

§ 127.203. Facilities subject to special permit requirements.

(a) This subchapter applies to the construction of a new major facility or modification at an existing major facility located in a nonattainment area, an ozone transport region or an attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance levels:

Pollutant	Averaging time	24 (hours)	8 (hours)	3 (hours)	1 (hours)
	Annual				
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	-
PM-10	1.0 µg/m ³	5 µg/m ³	-	-	-
CO	-	-	0.5 mg/m ³	-	2 mg/m ³
Lead	-	0.1 µg/m ³	-	-	-
PM_{2.5}	0.2 µg/m³	1.2 µg/m³	-	-	-

* * * * *

§ 127.210. Offset ratios.

(a) The emissions offset ratios for NSR purposes and ERC transactions subject to the requirements of this subchapter must be in an amount equal to or greater than the ratios specified in the following table:

Required Emission Offsets For Existing Sources, Expressed in Tons per Year

Pollutant / Area	Flue Emissions	Fugitive Emissions
PM-10 and SO _x	1.3:1	5:1
Volatile Organic Compounds		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.3:1
Moderate Areas	1.15:1	1.3:1
Marginal/Incomplete Data Areas	1.15:1	1.3:1
Transport Region	1.15:1	1.3:1
NO _x		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.2:1
Moderate Areas	1.15:1	1.15:1
Marginal/Incomplete Data Areas	1.15:1	1.15:1
Transport Region	1.15:1	1.15:1
Carbon Monoxide		
Primary Nonattainment Areas	1.1:1	1.1:1
Lead	1.1:1	1.1:1
PM _{2.5}		
PM _{2.5} Nonattainment Area		
PM _{2.5}	1:1	1:1
PM _{2.5} Precursors		
SO ₂	1:1	1:1
NO _x	1:1	1:1
VOCs	1:1	1:1
Ammonia	1:1	1:1

(b) In complying with the emissions offset requirements of this subchapter, the emission offsets obtained shall be of the same NSR regulated pollutant unless interpollutant offsetting is authorized for a particular pollutant in accordance with subsection (c).

(c) The Department may, based on a technical assessment, establish interpollutant trading ratios for offsetting PM_{2.5} emissions or PM_{2.5} precursor emissions in a specific nonattainment area or geographic area in this Commonwealth. The interpollutant trading ratios shall be subject to public review and comment for at least 30 days prior to submission to the EPA for approval as a SIP revision.

(d) If the EPA promulgates PM_{2.5} interpollutant trading ratios in 40 CFR Part 51 (relating to requirements for preparation, adoption, and submittal of implementation plans), the ratios will be adopted and incorporated by reference.

Subchapter H. GENERAL PLAN APPROVALS AND OPERATING PERMITS

USE OF PLAN APPROVALS AND OPERATING PERMITS FOR PORTABLE SOURCES

§ 127.641. Application for use of plan approvals and operating permits for portable sources.

(a) A source proposing to use a plan approval or an operating permit for a portable source shall notify the Department on a form provided by the Department and receive prior written approval from the Department prior to operating under the plan approval and operating permit for portable sources.

(b) For applications for sources operating at multiple temporary locations the following apply:

(1) A separate application form and fee may be required to be submitted for each location.

(2) The applicant shall notify the Department and the municipality where the operation shall take place in advance of each change in location.

(c) The application required by this section shall be **[either hand delivered or transmitted by certified mail return receipt requested] submitted to the Department.**

(d) The Department will take action on the application within 30 days of receipt.

[Pa.B. Doc. No. 19-362. Filed for public inspection March 15, 2019, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Special Regulation Counties

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's list of waters subject to special regulations.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

The proposed amendments to § 111.2 (relating to Allegheny County) are published under the statutory authority of section 5124(a) of the code (relating to particular areas of water).

D. Purpose and Background

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

The area known as the Point in Pittsburgh is where the Monongahela and Allegheny rivers come together to form the Ohio River. This busy boating destination is regulated specifically by 58 Pa. Code § 111.2. During the busy boating season, a No Wake Zone is enforced from the Fort Pitt Bridge over the Monongahela River and the 9th Street Bridge over the Allegheny River to the West End Bridge on the Ohio River. This zone is in effect on weekends from May 1 to October 1 each year as well as on the three summer holidays.

Recently, several entities including the City of Pittsburgh, Pittsburgh Safe Boating Council, 3 Rivers Rowing Association and the Pittsburgh Downtown Community Development Corporation have requested that the Commission consider extending the zone on the Allegheny River to the Veterans Bridge and keeping it in effect through November 1 of each year. This change is needed due to increased boating traffic in the fall for various events in the area. Additionally, the zone would create safer conditions for mooring vessels along the Riverwalk. This amendment was approved by the Boating Advisory Board at their recent meeting on January 8, 2019.

The Commission proposes that § 111.2 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-289. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart C. BOATING
CHAPTER 111. SPECIAL REGULATIONS
COUNTIES

§ 111.2. Allegheny County.

* * * * *

(c) *Allegheny, Monongahela and Ohio Rivers (City of Pittsburgh)*. Boats are limited to slow, no-wake speed

from the Fort Pitt Bridge over the Monongahela River and the [**9th Street Bridge**] **Veterans Bridge** over the Allegheny River to the West End Bridge over the Ohio River. This zone shall be in effect on weekends from May 1 to [**October**] **November** 1 from 3 p.m. Friday until midnight Sunday and from 3 p.m. on the day preceding Memorial Day, July 4 and Labor Day until midnight of the holiday.

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[Pa.B. Doc. No. 19-363. Filed for public inspection March 15, 2019, 9:00 a.m.]
