

**CONSIDERATION OF
FINAL RULEMAKING**

Annex A

**Nonattainment New Source Review For PM_{2.5}
*25 Pa. Code Chapters 121 and 127***



ENVIRONMENTAL QUALITY BOARD MEETING

MAY 18, 2011

Room 105, Rachel Carson State Office Building
400 Market Street, Harrisburg, PA



Federal NSR PM2.5 Rule

- On May 16, 2008, the U.S. Environmental Protection Agency (EPA) promulgated its final rule entitled “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5)” (73 FR 28321).
- The Federal NSR rule requires states with PM2.5 nonattainment areas to submit revised nonattainment NSR programs to the EPA as a revision of the State Implementation Plan (SIP) within 3 years from the date of publication of the Federal final rule.
- This NSR PM2.5 final rulemaking amends the existing nonattainment NSR requirements in Chapters 121 and 127 to adopt the Federal NSR requirements for PM2.5 and PM2.5 precursors.



New Source Review (NSR)

PM2.5 Applicability

- The final rulemaking, required under Section 173 of the Clean Air Act, applies to the construction of major stationary sources or major modifications at existing major sources located in areas designated nonattainment for the fine particulate matter (PM2.5) national ambient air quality standards.
- A stationary source is considered a "major facility" if its actual or potential emissions of PM2.5 are 100 tons per year (TPY) or more. The PM2.5 threshold for major modifications at an existing major facility is 10 TPY.
- NSR also applies to a 40 TPY increase actual or potential emissions of nitrogen oxides (NO_x) or sulfur dioxide (SO₂), precursors to the formation of PM2.5 .



NSR PM2.5 Rulemaking Timetable

- The Environmental Quality Board (Board) approved the NSR PM2.5 proposed rulemaking on November 17, 2009.
- On February 6, 2010, the proposed rulemaking was published in the *Pennsylvania Bulletin* for public review and comment (40 Pa.B. 703).
- Three public hearings were held on March 9, 10 and 12, 2010, in Pittsburgh, Norristown and Harrisburg, PA, respectively.
- The written comment period closed on April 12, 2010.
- The Board received comments from 8 commentators including the Independent Regulatory Review Commission (IRRC).



Key Comments and Concerns

- Aggregation of PM_{2.5} *de minimis* emission increases.
- Fugitive emissions in the context of major facility determinations.
- Definitions for the terms “Regulated NSR Pollutants” and “Significant.”
- Clarification of § 127.203 (relating to facilities subject to special permit requirements).
- Interpollutant offset trading ratios for PM_{2.5} and PM_{2.5} precursor emissions.



Changes made from Proposed to Final Rulemaking to Address Comments

- The definition of the term “Regulated NSR Pollutant” was revised in 25 Pa. Code § 121.1 to specify that nitrogen oxides (NO_x) are presumed to be precursors to PM_{2.5} in PM_{2.5} nonattainment areas unless the Department and EPA determine 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. A similar change was made to the definition of the term “Significant.”
- Section 127.203 was modified to delete the proposed phrase “including the emissions from the proposed project” in subsections (b)(2) and (3).



Changes made from Proposed to Final Rulemaking to Address Comments

- Section 127.203a(a)(2) was modified to delete the proposed aggregation of *de minimis* emissions to calculate the net emissions increase for PM_{2.5} and PM_{2.5} precursors.
- Changes to Section 127.206(o) clarify that an emission reduction credit shall only be used for offsetting or netting involving the same criteria pollutant unless approved in writing by the Department and the EPA.



Interpollutant Trading for PM2.5 and PM2.5 Precursors

- Based on guidance provided by EPA, the interpollutant trading provisions in § 127.210(b), (c) and (d) have been revised as follows:
 - The interpollutant trading ratios for PM2.5 and PM2.5 precursors have been deleted;
 - A provision has been added to authorize the Department to establish interpollutant trading ratios for offsetting PM2.5 emissions or PM2.5 precursor emissions based on a technical assessment for certain geographical areas; and
 - Subsection (d) provide that if the EPA promulgates PM2.5 interpollutant trading ratios, the ratios shall be adopted and incorporated in the final-form regulation by reference.



Final-form NSR PM2.5 Amendments

- The final-form NSR PM2.5 amendments are generally consistent with the Federal NSR PM2.5 provisions. However, the existing requirements for fugitive emissions have been retained because of the longstanding prohibition against certain fugitive emissions in 25 Pa. Code Section 123.1.
 - Retention of fugitive emission requirements for NSR applicability purposes ensures that fewer areas in Pennsylvania will be designated PM2.5 nonattainment areas.
- Section 127.206 (relating to ERC general requirements) provides a one-year amnesty period for the submission of ERC Registry Applications, if an owner or operator missed the deadline for emission reductions occurring after April 5, 2005.



Advisory Committee Actions

- The Department met with the Air Quality Technical Advisory Committee (AQTAC) on September 15, 2010, and the Citizens Advisory Council (CAC) Air Committee on October 18, 2010, to discuss the final rulemaking.
- The AQTAC and CAC both concurred with the Department's recommendation to move the final rulemaking forward to the Board.



NSR PM2.5 Final Rulemaking Recommendation

- The Department recommends that the Board approve the NSR PM2.5 final rulemaking.
- The Department will submit the final rulemaking, if published in the *Pennsylvania Bulletin* as final-form regulation, to the EPA for approval as a revision to the State Implementation Plan.
- Your consideration of this final rulemaking is greatly appreciated.



Thank You!

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