

**PROPOSED RULEMAKING  
ENVIRONMENTAL QUALITY BOARD  
[25 PA CODE CHS. 121 and 129]  
Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs**

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 129 (relating to general provisions; and standards for sources) to read as set forth in Annex A. The proposed rulemaking would amend Chapter 129 to adopt presumptive reasonably available control technology (RACT) requirements and RACT emission limitations for certain major stationary sources of oxides of nitrogen (NO<sub>x</sub>) and volatile organic compound (VOC) emissions.

The proposed rulemaking would revise § 121.1 (relating to definitions) to add or amend the terms: “CEMS—continuous emissions monitoring system,” “process heater” and “stationary internal combustion engine” to support the proposed amendments to Chapter 129.

The proposed rulemaking will be submitted to the EPA upon final-form publication for approval as a revision to the Commonwealth’s State Implementation Plan (SIP).

This notice is given under Board order at its meeting of \_\_\_\_\_, 2013.

*A. Effective Date*

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

*B. Contact Persons*

For further information, contact Randy Bordner, Chief, Stationary Sources Section, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3921; or Robert “Bo” Reiley, 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 electronically on the Department of Environmental Protection’s (Department) web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Search/Keyword: Public Participation).

*C. Statutory Authority*

The 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; and section 5(a)(8), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

#### *D. Background and Purpose*

EPA is required under section 109 the federal Clean Air Act (“CAA”) to set National Ambient Air Quality Standards (NAAQS) for six criteria pollutants of which ozone is one. 42 U.S.C. § 7409. The NAAQS are established by the EPA as the maximum concentrations in the atmosphere for specific air contaminants to protect public health and welfare.

Ozone is a highly reactive gas which at sufficient concentrations can produce a wide variety of harmful effects. At elevated concentrations, ozone can adversely affect human health, vegetation, materials, economic values, and personal comfort and well-being. It can cause damage to important food crops, forests, livestock and wildlife. Repeated exposure to ozone pollution may cause a variety of adverse health effects for both healthy people and those with existing conditions including difficulty in breathing, chest pains, coughing, nausea, throat irritation, and congestion. It can worsen bronchitis, heart disease, emphysema, and asthma, and reduce lung capacity. Asthma is a significant and growing threat to children and adults. High levels of ozone also affect animals in ways similar to humans.

On April 30, 1971, the EPA promulgated primary and secondary NAAQS for photochemical oxidants under section 109 of the CAA. 36 FR 8186. These were set at an hourly average of 0.08 ppm total photochemical oxidants not to be exceeded more than 1 hour per year. On February 8, 1979, EPA announced a revision to the then-current 1-hour standard. 44 FR 8202. The final rulemaking revised the level of the primary 1-hour ozone standard from 0.08 ppm to 0.12 ppm and set the secondary standard identical to the primary standard. This revised 1-hour standard was subsequently reaffirmed on March 9, 1993. 58 FR 13008.

The CAA, under section 110, gives the states primary responsibility for achieving the NAAQS. 42 U.S.C. § 7410. The principal mechanism at the state level for complying with the CAA is the SIP. A SIP includes the regulatory programs, actions, and commitments a state will carry out to implement its responsibilities under the CAA. Once approved by the EPA, a SIP is legally enforceable under both federal and state law.

Section 182 of the CAA requires that, for areas that exceed the NAAQS for ozone, states shall develop and implement a program that mandates that certain major stationary sources develop and implement a RACT program. 42 U.S.C. § 7511a. RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 17, 1979).

Under Sections 182(f)(1) and 184(b)(2) of the CAA, these RACT requirements are applicable to all sources in Pennsylvania that emit or have a potential to emit greater than 100 tons per year of NO<sub>x</sub>. 42 U.S.C. §§ 7511a(f)(1) and (b)(2). Under Sections 182(b)(2) and 184(b)(2) of the CAA, these RACT requirement are applicable to all sources in Pennsylvania that emit or have a potential to emit greater than 50 tons per year of VOCs. 42 U.S.C. §§ 7511a(b)(2) and 7511c (b)(2). NO<sub>x</sub> and VOC controls are required statewide because of Pennsylvania’s inclusion in the Northeast Ozone Transport Region. 42 U.S.C. § 7511c(a). Additionally, because the five-county Philadelphia area was designated as severe ozone nonattainment for the one-hour

standard, sources of greater than 25 tons per year of either pollutant are required to implement RACT under Section 182(d) of the CAA. Pennsylvania's RACT regulation codified at §§ 129.91—129.95, was implemented for the 1-hour ozone standard. This regulation was effective upon publication in the *Pennsylvania Bulletin* on January 15, 1994, (24 Pa. B. 467).

On July 18, 1997, the EPA concluded that revisions to the current primary standard to provide increased public health protection were appropriate at this time to protect public health with an adequate margin of safety. 62 FR 38856. Further, the EPA determined that it was appropriate to establish a revised 8-hour primary standard of 0.08 ppm. *Id.* In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. See 69 FR 23858, 23931 (April 30, 2004).

On March 27, 2008, the EPA lowered the 8-hour standard from 0.08 part per million (ppm) to 0.075 ppm. 73 FR 16436. The EPA made designations for the 2008 8-hour ozone standards on April 30, 2012, with an effective date of July 20, 2012. See 77 FR 30160 (May 21, 2012). The EPA designated all or portions of Allegheny, Armstrong, Beaver, Berks, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland counties as nonattainment for the 2008 8-hour ozone NAAQS. See 77 FR 30088, 30143 (May 21, 2012). Therefore, the Commonwealth must submit a SIP revision to demonstrate how it will attain and maintain the 2008 8-hour ozone standard in the nonattainment areas.

A re-evaluation of what measures constitute RACT is a requirement to be fulfilled each time a NAAQS is promulgated, as happened in 1997 and 2008 for ozone. According to the EPA's Final Rule to Implement the 8-Hour Ozone NAAQS, areas classified as "moderate" nonattainment or higher must submit a demonstration, as a revision to the SIP, that their current rules fulfill 8-hour ozone RACT requirements for all CTG categories and all major, non-CTG sources. 70 FR 71612, (November 29, 2005).

According to this implementation rule, such demonstrations can be made with either a new RACT determination or a certification that previously-required RACT controls represent RACT for the 8-hour ozone NAAQS. The certification should be accompanied by appropriate supporting information, such as consideration of information received during the public comment period. The RACT SIP revision submittal is in addition to the 8-hour ozone attainment demonstration plan for the area, which will also be a revision to Pennsylvania's SIP. The RACT SIP revision was required to be submitted to EPA by September 15, 2006.

Pennsylvania submitted a SIP revision in September 2006 certifying that RACT determinations made for the 1-hour ozone standard in 1994 under §§ 129.91—129.95 were still RACT for the 8-hour standard, including for those sources where a determination was made that "no controls" continued to represent RACT for the 1-hour ozone standard. However, U.S. EPA informally indicated to the Department that based on *NRDC v. EPA*, 571 F.3d 1245 (July 10, 2009), a re-analysis rather than certification is necessary for sources for which the Department previously determined that "no controls" represented RACT for the 1-hour ozone standard.

As a result of U.S. EPA's decision, the Department conducted a generic RACT analysis of those sources where a "no controls" decision was previously made under §§ 129.91—129.95 for the 1-hour ozone standard to determine if additional controls would represent RACT for the 8-hour ozone NAAQS. That generic analysis identified source categories looking at size and fuel type; identified available feasible NO<sub>x</sub> and/or VOC control options for each type of existing source; estimated emission reduction potential for each control technology; identified costs for technologies, using appropriate updates; evaluated cost-effectiveness per EPA guidance, for both uncontrolled and controlled sources (combinations of technologies); and chose emission limit achievable by cost-effective technologies using benchmark cost/ton.

Based on this analysis the Board has determined that additional cost-effective controls represent RACT for the 8-hour ozone NAAQS. There are nine source categories that will be affected by this proposal - combustion units; boilers; process heaters; turbines; engines; municipal solid waste landfills; municipal waste combustors; cement kilns; and other sources that are not regulated elsewhere under Chapter 129.

All together this proposal would affect the owners and operators of approximately 810 individual sources at 192 major facilities throughout this Commonwealth. Under this proposal the Board anticipates that the total NO<sub>x</sub> emission reductions will be approximately 158,421 tons per year.

The Board determines that this proposed rulemaking will fulfill requirements for re-evaluation and be less resource intensive than imposing case-by-case analysis for affected facilities in the covered categories. As more fully discussed in Section E (*Summary of Regulatory Requirements*) the Board proposes a compliance option hierarchy where the owner or operator of an applicable source that cannot meet the presumptive RACT emission limitations and requirements under proposed § 129.97 may apply for a facility-wide/System-wide NO<sub>x</sub> emissions averaging under proposed § 129.98 or an alternative case-by-Case RACT determination under proposed § 129.99.

The Board determines that the requirements under this proposal are reasonably necessary to attain and maintain the 8-hour ozone NAAQS.

#### E. *Summary of Regulatory Requirements*

##### § 121.1. Definitions.

The proposed rulemaking would revise § 121.1 to add or amend the terms: "CEMS—continuous emissions monitoring system," "process heater" and "stationary internal combustion engine" to support the proposed amendments to Chapter 129.

##### § 129.96. Applicability.

Under proposed subsection (a), the proposed regulation would apply statewide to the owner and operator of a major NO<sub>x</sub> emitting facility or a major VOC emitting facility, or both, that was in existence on or before July 20, 2012.

Under proposed subsection (b), the proposed regulation would apply statewide to the owner and operator of a NO<sub>x</sub> emitting facility or VOC emitting facility, or both, when the installation of a new source or a modification or change in operation of an existing source after July 20, 2012, results in the source or facility meeting the definition of a major NO<sub>x</sub> emitting facility or a major VOC emitting facility and for which a requirement or an emission limitation, or both, has not been established in §§ 129.51—129.52c, 129.54—129.69, 129.71—129.73, 129.75, 129.77, 129.101—129.107 and 129.301—129.310.

§ 129.97. Presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule.

Under proposed subsection (a), the owner and operator of a source listed in one or more of subsections (b)—(h) located at a major NO<sub>x</sub> emitting facility or major VOC emitting facility, or both, shall comply with the applicable presumptive RACT requirement or RACT emission limitation, or both, beginning with the specified compliance date, unless an alternative compliance schedule is submitted and approved under subsections (k)—(m) or under § 129.99 (relating to alternative RACT proposal and petition for alternative compliance schedule).

Under proposed subsection (b), the owner and operator of the listed combustion units that are located at a major NO<sub>x</sub> emitting facility or major VOC emitting facility, or both, must comply with the presumptive RACT requirement for that applicable source, which includes, among other things, inspection and adjustment requirements.

Under proposed subsection (c), the owner and operator of a source listed in this subsection located at a major NO<sub>x</sub> emitting facility or major VOC emitting facility, or both, shall comply with the applicable presumptive RACT requirement, which includes, among other things, the operation of the source in accordance with the manufacturer's specifications and good engineering practices.

Under proposed subsection (d), the owner and operator of a combustion unit or other combustion source located at a major VOC emitting facility subject to § 129.96 shall comply with the presumptive RACT requirement of good engineering practices for the control of the VOC emissions from the combustion unit or other combustion source.

Under proposed subsection (e), the owner and operator of a municipal solid waste landfill subject to § 129.96 shall comply with the applicable presumptive RACT requirement identified under paragraphs (1)-(2).

Under proposed subsection (f), the owner and operator of a municipal waste combustor subject to § 129.96 shall comply with the applicable presumptive RACT requirement identified under paragraphs (1)-(2).

Under proposed subsection (g), the owner and operator of a NO<sub>x</sub> air contamination source listed in this subsection located at a major NO<sub>x</sub> emitting facility or a VOC air contamination source listed in this subsection located at a major VOC emitting facility, or both, subject to § 129.96 may not cause, allow or permit NO<sub>x</sub> or VOCs, or both, to be emitted from the air contamination

source for which the source is major in excess of the applicable RACT emission limitation under paragraphs (1)-(4).

Under proposed subsection (h), the owner and operator of a Portland cement kiln subject to § 129.96 shall comply with the applicable presumptive RACT emission limitation under paragraphs (1)-(3).

Under proposed subsection (i), among other things, the requirements and emission limitations of this proposed section would supersede the requirements and emission limitations of a RACT permit issued to the owner or operator of an air contamination source subject to one or more of subsections (b)—(h) prior to the effective date of adoption of this proposed rulemaking except to the extent the RACT permit contains more stringent requirements or emission limitations, or both.

Under proposed subsection (j), among other things, the requirements and emission limitations of this section do not supersede the requirements and emission limitations of §§ 129.201—129.205, 145.111—145.113 and 145.141—145.146 (relating to additional NO<sub>x</sub> requirements; emissions of NO<sub>x</sub> from stationary internal combustion engines; and emissions of NO<sub>x</sub> from cement manufacturing) except to the extent this section contains more stringent requirements or emission limitations, or both.

Under proposed subsection (k), the owner or operator of a major NO<sub>x</sub> emitting facility or a major VOC emitting facility, or both, subject to § 129.96 that includes an air contamination source subject to one or more of subsections (b)—(h) that cannot meet the applicable RACT requirement or RACT emission limitation without installation of an air cleaning device may submit a petition, in writing, requesting an alternative compliance schedule in accordance with paragraphs (1)-(2).

Under proposed subsection (l), the Department or appropriate approved local air pollution control agency would review the timely and complete written petition requesting an alternative compliance schedule submitted in accordance with subsection (k) and approve or deny the petition in writing.

Under proposed subsection (m), approval or denial under subsection (l) of the timely and complete petition for an alternative compliance schedule submitted under subsection (k) would be effective on the date the letter of approval or denial of the petition is signed by the authorized representative of the Department or appropriate approved local air pollution control agency.

§ 129.98. Facility-wide or system-wide NO<sub>x</sub> emissions averaging RACT operating permit modification general requirements.

Under proposed subsection (a) the owner or operator of a major NO<sub>x</sub> emitting facility that includes an air contamination source subject to a NO<sub>x</sub> RACT requirement or NO<sub>x</sub> RACT emission limitation in § 129.97 (relating to presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule) that cannot meet the applicable NO<sub>x</sub> RACT requirement or NO<sub>x</sub> RACT emission limitation may elect to meet the applicable NO<sub>x</sub>

RACT requirement or NOx RACT emission limitation in § 129.97 by averaging NOx emissions on either a facility-wide or system-wide basis using a 30-day rolling average. System-wide emissions averaging must be among sources under common control of the same owner or operator in this Commonwealth.

Under proposed subsection (b) the owner or operator of each facility that elects to comply with subsection (a) shall submit an operating permit modification that incorporates the requirements of this section for averaging NOx emissions on either a facility-wide or system-wide basis using a 30-day rolling average to the Department or appropriate approved local air pollution control agency by the applicable date in paragraphs (1) – (2).

Under proposed subsection (c) each NOx emitting source included in the operating permit modification for averaging NOx emissions on either a facility-wide or system-wide basis using a 30-day rolling average submitted under subsection (b) must be an air contamination source subject to a NOx RACT emission limitation in § 129.97.

Under proposed subsection (d) the operating permit modification for averaging NOx emissions on either a facility-wide or system-wide basis using a 30-day rolling average submitted under subsection (b) must demonstrate that the aggregate NOx emissions emitted by the air contamination sources included in the facility-wide or system-wide NOx emissions averaging RACT operating permit modification using a 30-day rolling average are not greater than 90% of the sum of the NOx emissions that would be emitted by the group of included sources if each source complied with the applicable NOx RACT requirement or NOx RACT emission limitation in § 129.97 on a source-specific basis.

Under proposed subsection (e) the owner or operator shall calculate the alternative facility-wide or system-wide NOx RACT emissions limitation using a 30-day rolling average for the air contamination sources included in the operating permit modification submitted under subsection (b) by using the equation in this subsection to sum the emissions for all of the sources included in the operating permit modification.

Under proposed subsection (f) the operating permit modification specified in subsections (b)—(e) may include facility-wide or system-wide averaging emissions using a 30-day rolling average only for NOx emitting sources or NOx emitting facilities that are owned or operated, or both, by the applicant.

Under proposed subsection (g) the operating permit modification specified in subsections (b)—(f) must include the information identified under paragraphs (1) – (3).

Under proposed subsection (h) an air contamination source or facility, or both, included in the facility-wide or system-wide NOx emissions averaging RACT operating permit modification may be included in only one facility-wide or system-wide NOx emissions averaging RACT proposal.

Under proposed subsection (i) the Department or appropriate approved local air pollution control agency will issue a modification to the operating permit.

Under proposed subsection (j) the owner or operator of an air contamination source or facility, or both, included in the facility-wide or system-wide NOx emissions averaging RACT operating permit modification must submit the reports and records specified in subsection (g)(3) to the Department or appropriate approved local air pollution control agency to demonstrate compliance with § 129.100.

Under proposed subsection (k) the owner or operator of an air contamination source or facility, or both, included in a facility-wide or system-wide NOx emissions averaging RACT operating permit modification that achieves emission reductions in accordance with other emission limitations required under the act or the Clean Air Act, or regulations adopted under the act or the Clean Air Act, that are not NOx RACT emission limitations may not substitute those emission reductions for the emission reductions required by the facility-wide or system-wide NOx emissions averaging RACT operating permit modification.

Under proposed subsection (l) the owner or operator of an air contamination source subject to a NOx emission limitation in § 129.97 that is not included in a facility-wide or system-wide NOx emissions averaging RACT operating permit modification submitted under subsection (b) shall operate the source in compliance with the applicable NOx emission limitation in § 129.97.

Under proposed subsection (m) the owner and operator of an air contamination source included in a facility-wide or system-wide NOx emissions averaging RACT operating permit modification submitted under subsection (b) shall be liable for a violation of the operating permit modification or this section at that source or other source in the operating permit modification.

#### § 129.99. Alternative RACT proposal and petition for alternative compliance schedule.

Under proposed subsection (a) the owner or operator of an air contamination source that cannot meet the applicable presumptive RACT requirement or RACT emission limitation of § 129.97 or participate in either a facility-wide or system-wide NOx emissions averaging RACT operating permit modification under § 129.98 may propose an alternative NOx RACT emission limitation or VOC RACT emission limitation, or both, in accordance with subsection (d) of this proposed section.

Under proposed subsection (b) the owner or operator of a NOx air contamination source with a potential emission rate equal to or greater than 5.0 tons of NOx per year that is not subject to § 129.97 or §§ 129.201—129.205 (relating to additional NOx requirements) located at a major NOx emitting facility subject to § 129.96 shall propose a NOx RACT emission limitation in accordance with subsection (d).

Under proposed subsection (c) the owner or operator of a VOC air contamination source with a potential emission rate equal to or greater than 2.7 tons of VOC per year that is not subject to § 129.97 located at a major VOC emitting facility subject to § 129.96 shall propose a VOC RACT emission limitation in accordance with subsection (d).



Under proposed subsection (d) the owner or operator proposing an alternative RACT emission limitation under subsection (a), (b) or (c) must comply with all of the proposal requirements under paragraphs (1) – (7).

Under proposed subsection (e) the Department or appropriate approved local air pollution control agency will review and approve, modify, or deny the application as indicated under paragraphs (1) – (3).

Under proposed subsection (f) the proposed alternative RACT emission limitation must be approved, denied or modified by the Department or appropriate approved local air pollution control agency through the issuance of a plan approval or operating permit modification prior to the owner or operator implementing the alternative RACT emission limitation.

Under proposed subsection (g) the emission limit and requirements specified in the plan approval or operating permit under subsection (f) supersedes the emission limit and requirements in the existing plan approval or operating permit issued to the owner or operator of the source except to the extent the existing plan approval or operating permit contains more stringent requirements.

Under proposed subsection (h), the Department will submit each approved alternative RACT emission limitation to U.S. EPA for approval as a revision to the SIP. The owner and operator of the facility will bear the costs of public hearings and notification required for EPA SIP approval.

Under proposed subsection (i), the owner and operator of a facility proposing to comply with the applicable RACT emission limitation under subsection (a), (b) or (c) through the installation of an air cleaning device may submit a petition, in writing, requesting an alternative compliance schedule in accordance with paragraphs (1) – (2).

Under proposed subsection (j) the Department or appropriate approved local air pollution control agency will review the written petition requesting an alternative compliance schedule submitted in accordance with subsection (h) and approve or deny the petition in writing.

Under proposed subsection (k) the emission limit and requirements specified in the plan approval or operating permit issued by the Department or appropriate approved local air pollution control agency under subsection (j) supersede the emission limit and requirements in the existing plan approval or operating permit, except to the extent the existing plan approval or operating permit contains more stringent requirements.

Under proposed subsection (l) approval or denial under subsection (j) of the timely and complete petition for an alternative compliance schedule submitted under subsection (i) will be effective on the date the letter of approval or denial of the petition is signed by the authorized representative of the Department or appropriate approved local air pollution control agency.

#### § 129.100. Compliance demonstration and recordkeeping requirements.

Under proposed subsection (a) the owner and operator of an air contamination source subject to the requirements of this proposed regulation must demonstrate compliance with the applicable

RACT requirement or RACT emission limitation by performing the monitoring or testing procedures under paragraphs (1)—(2), except as provided in subsection (c).

Under proposed subsection (b) the owner and operator of an air contamination source subject to subsection (a) shall demonstrate compliance with the applicable RACT requirement or RACT emission limitation in accordance with the procedures in subsection (a) not later than the applicable timeframes under paragraphs (1)—(2).

Under proposed subsection (c) an owner or operator of an air contamination source subject to this section and §§ 129.96—129.98 may request a waiver from the requirement to demonstrate compliance with the applicable emission limitation listed in § 129.97 if the requirements under paragraphs (1) – (4) are met.

Under proposed subsection (d) the owner and operator of an air contamination source subject to this section and §§ 129.96—129.99 shall keep records to demonstrate compliance with §§ 129.96—129.99 as set forth in paragraphs (1) – (3).

Under proposed subsection (e) the owner or operator of an air contamination source claiming that the air contamination source is exempt from the applicable NO<sub>x</sub> emission rate threshold specified in § 129.99(b) and the requirements of § 129.97 based on the air contamination source's potential to emit shall maintain records that demonstrate to the Department or appropriate approved local air pollution control agency that the air contamination source is not subject to the specified emission rate threshold.

Under proposed subsection (f) the owner or operator of an air contamination source claiming that the air contamination source is exempt from the applicable VOC emission rate threshold specified in § 129.99(c) and the requirements of § 129.97 based on the air contamination source's potential to emit shall maintain records that demonstrate to the Department or appropriate approved local air pollution control agency that the air contamination source is not subject to the specified emission rate threshold.

Under proposed subsection (g) the owner or operator of a combustion unit subject to § 129.97(b)(1) shall record each adjustment conducted under the procedures in § 129.97(b)(1) in a permanently bound log book or other method approved by the Department or appropriate approved local air pollution control agency. This log book must contain, at a minimum, the information identified in paragraphs (1) – (6).

Under proposed section (h) the owner or operator of an oil-, gas- or combination oil and gas-fired unit subject to § 129.97(b)(2) shall maintain records including a certification from the fuel supplier of the type of fuel. For each shipment of residual oil, the record shall include those items identified under paragraphs (1) – (2).

Under proposed section (i) the owner or operator of a Portland cement kiln subject to § 129.97(h) shall maintain a daily operating log for each Portland cement kiln. The record for each kiln shall include those items identified under paragraphs (1) – (4).

## *F. Benefits, Costs and Compliance*

### Benefits

Reduced ambient concentrations of ground-level ozone would reduce the incidences of hospital admissions for respiratory ailments including asthma and improve the quality of life for citizens overall. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ground-level ozone while engaged in activities that involve physical exertion.

The proposed rulemaking may create economic opportunities for NO<sub>x</sub> and VOC emission control technology innovators, manufacturers, and distributors through an increased demand for new or improved equipment. In addition, the owners and operators of regulated facilities may be required to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method in order to comply with the rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

### Compliance Costs

Compliance costs will vary for each facility depending on which compliance option is chosen by the owners and operators of a facility. The proposed rulemaking would include a provision for the owner and operator of an affected facility that cannot meet the applicable NO<sub>x</sub> RACT or VOC RACT emission limitation to elect to meet the applicable NO<sub>x</sub> RACT requirement or NO<sub>x</sub> RACT emission limitation in § 129.97 by averaging NO<sub>x</sub> emissions on either a facility-wide or system-wide basis using a 30-day rolling average or submit a case-specific RACT proposal for an alternative emission limitation to the Department for approval.

Under these provisions, the owner or operator must demonstrate to the Department's satisfaction that it is economically or technically infeasible to meet the applicable proposed NO<sub>x</sub> RACT or VOC RACT emission limitation. These provisions may minimize compliance costs to the owner or operator of an affected facility.

Emission limitations established by regulation will not require the submission of applications for amendments to existing operating permits. These requirements will be incorporated as applicable requirements at the time of permit renewal, if less than 3 years remain in the permit term.

### Compliance Assistance Plan

The Department will continue to work with the Small Business Assistance Program to aid the facilities less able to handle permitting matters with in-house staff. Through increased pre-application meetings with facilities, the Department is targeting the benefit to industry and the Department for faster review of permit applications.

## Paperwork Requirements

The regulatory revisions will not increase the paperwork that is already generated during the normal course of business operations.

### *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. The proposed RACT requirements would allow the Department and approved local air pollution control agencies to maintain or increase the reductions of NO<sub>x</sub> and VOC emissions from the regulated sources in this Commonwealth, sustain the gains made in healthful air quality and ensure continued protection of the environment and the public health and welfare of the citizens of this Commonwealth.

### *H. Sunset Review*

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on \_\_\_\_\_, 2013, the Department submitted a copy of the proposed rulemaking to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the House and Senate Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria 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 of comments, recommendations or objections raised.

*J. Public Comments*

Written comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by DATE. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by DATE. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic comments—Comments may be submitted electronically to the Board at RegComments@pa.gov and must also be received by the Board by DATE. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission. If the sender does not receive an acknowledgement of electronic comments within 2 working days, the comments should be retransmitted to ensure receipt.

*K. Public Hearings*

The Board will hold \_\_\_ public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held at \_\_\_ p.m. on the following dates:

\_\_\_\_\_ (blank) \_\_\_\_\_  
\_\_\_\_\_ (blank) \_\_\_\_\_  
\_\_\_\_\_ (blank) \_\_\_\_\_

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 10 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.

E. Christopher Abruzzo  
Acting Chairman