

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

The Department of Environmental Protection (Department) finalized amendments to Chapters 121 (relating to general provisions) and 127, Subchapters E and H (relating to new source review; and general plan approvals and operating permits) for consideration by the Environmental Quality Board (Board).

**Summary and Purpose of the Final Rulemaking**

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

On April 6, 2018, the EPA published a notice of finding of failure to submit SIP revisions for the 2012 annual PM<sub>2.5</sub> National Ambient Air Quality Standards, effective May 7, 2018. See 83 FR 14759. In accordance with section 179 of the Clean Air Act (42 U.S.C.A. § 7509), a mandatory 18-month sanction clock began on May 7, 2018. To stop the sanction clock, the Commonwealth needs to submit this final-form rulemaking to the EPA, for the EPA's technical and administrative review, by November 7, 2019.

The final-form rulemaking amends Chapters 121 and 127, Subchapter E to incorporate the Federal requirements regulating VOC and ammonia as precursor emissions to the formation of fine particulate matter. This final-form rulemaking also removes the requirement that applications for plan approvals and operating permits for portable sources be submitted by hand delivery or certified mail return receipt requested, to allow for greater flexibility in submitting these applications to the Department.

The final-form rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP upon publication in the *Pennsylvania Bulletin*.

**Affected Parties**

This final-form rulemaking applies to owners and operators of new or modified major facilities with emissions of VOC or ammonia as PM<sub>2.5</sub> precursors located within PM<sub>2.5</sub> nonattainment areas or that are located within PM<sub>2.5</sub> attainment areas and will have a significant impact to a PM<sub>2.5</sub> nonattainment area. It is not expected that any facilities within PM<sub>2.5</sub> attainment areas will have a significant impact on PM<sub>2.5</sub> nonattainment areas because no new facilities are known to be

constructed, or planned to be constructed, within PM<sub>2.5</sub> nonattainment areas that will emit major amounts of VOC or ammonia. There are 17 existing facilities, in Allegheny, Delaware and Lebanon Counties, that currently have the potential to emit 100 tons per year (TPY) or greater of emissions of VOC, ammonia, or both and that will only become subject to the final-form rulemaking if there is a major modification for VOC, 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 will be affected by this final-form rulemaking when submitting applications to the Department for a plan approval or operating permit. Currently, these applications are required to be either hand delivered or transmitted by certified mail return receipt requested. This final-form rulemaking removes the language on specific delivery method requirements to allow greater flexibility in submitting these applications to the Department.

### **Advisory Groups**

This final-form rulemaking is scheduled to be presented to the Air Quality Technical Advisory Committee (AQTAC) on August 15, 2019, to the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee on August 16, 2019, and to the full CAC on August 20, 2019. Previously, AQTAC and CAC voted unanimously to concur with the Department's recommendation to present the proposed rulemaking to the Board for consideration. Since the Department has not changed the Annex A or made any significant changes to the other rulemaking documents, the same outcome is expected for this final-form rulemaking. Furthermore, the Department has not received any adverse public comments to present to the committees.

On July 25, 2018, the Small Business Compliance Advisory Committee (SBCAC) stated that the proposed rulemaking did not appear to impact small businesses, that the Committee considered the Department's presentation on the Annex A as informational only, and that the members did not have comments on the proposed rulemaking. SBCAC then voted unanimously to concur with the Department's recommendation to present the proposed rulemaking to the Board for consideration. Since SBCAC determined that the proposed rulemaking did not affect small businesses and the Department has not changed the Annex A from proposed to final-form, the Department has satisfied the requirement that SBCAC review and advise the Department on rulemakings which affect small business stationary sources, under section 7.8(a)(6) of the Air Pollution Control Act (35 P.S. § 4007.8(a)(6)).

### **Public Comments and Board Hearings**

The proposed rulemaking was adopted by the Board at its meeting on December 18, 2018, and published in the *Pennsylvania Bulletin* on March 16, 2019, with a 66-day public comment period (49 Pa.B. 1146). Three public hearings were held on April 16, 17 and 18, 2019, in Harrisburg, Pittsburgh, and Norristown, respectively. The public comment period closed on May 20, 2019. The Department received three comments. One commenter supported the proposed rulemaking, while the other two commenters made general comments proposing ways to improve air quality, which are beyond the scope of this rulemaking. On June 19, 2019, the Independent Regulatory

Review Commission submitted a letter stating that it has no objections, comments, or recommendations to offer on the rulemaking, and that if the Board delivers the final-form regulation without revisions, and the House and Senate Environmental Resources and Energy Committees do not take any action, it will be deemed approved.