

Executive Summary
Amendments to 25 Pa. Code Chapters 121 and 129
Additional RACT Requirements for Major Sources of NO_x and VOCs
for the 2015 Ozone NAAQS

The Department of Environmental Protection (Department) proposes to amend Chapters 121 and 129 (relating to general provisions; and standards for sources), to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking is mandated by Federal law. Section 109(b) of the Clean Air Act (CAA) (42 U.S.C.A. § 7409(b)) provides that the Administrator of the United States Environmental Protection Agency (EPA) must establish National Ambient Air Quality Standards (NAAQS) for criteria air pollutants, of which ground-level ozone is one, at levels that protect public health and welfare, including the environment. The EPA set the ground-level ozone NAAQS in July 1997 at 0.08 part per million (ppm) averaged over 8 hours, lowered it in March 2008 to 0.075 ppm averaged over 8 hours, and in October 2015 to 0.070 ppm averaged over 8 hours. See 62 FR 38855 (July 18, 1997), 73 FR 16436 (March 27, 2008), and 80 FR 65292 (October 15, 2015). The EPA designated areas of this Commonwealth as nonattainment for the 8-hour ozone NAAQS. Because this Commonwealth contains nonattainment areas subject to section 182 of the CAA (42 U.S.C.A. § 7511a) and is included as part of the Ozone Transport Region established by Congress under section 184 of the CAA (42 U.S.C.A. § 7511c), the Commonwealth is required to implement reasonably available control technology (RACT) requirements, statewide, for major stationary sources of oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) as part of a Federally-approvable State Implementation Plan (SIP) for the 2015 8-hour ozone NAAQS. This proposed rulemaking would amend Chapter 129 to adopt presumptive RACT requirements and RACT emission limitations for certain major stationary sources of NO_x and VOC emissions and would amend Chapter 121 to add terms to support the amendments to Chapter 129.

This proposed rulemaking is reasonably necessary to attain and maintain the 2015 8-hour ozone NAAQS in the nonattainment areas.

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

Summary of this Proposed Rulemaking

This proposed rulemaking would revise § 121.1 (relating to definitions) to add the terms “combustion source” and “natural gas compression and transmission facility fugitive VOC air contamination source” to support the proposed amendments to Chapter 129.

This proposed rulemaking would add § 129.111 (relating to applicability) to establish applicability requirements for the owners and operators of major NO_x emitting or major VOC emitting facilities, or both, for which no RACT requirements have otherwise been established in Chapter 129.

This proposed rulemaking would add § 129.112 (relating to presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule) to establish that the owners and operators of major NO_x emitting or VOC emitting facilities, or both, shall comply with the specified presumptive RACT requirements and RACT emission limitations, and provides a mechanism for requesting an alternative compliance schedule.

This proposed rulemaking would add § 129.113 (relating to facility-wide or system-wide NO_x emissions averaging plan general requirements) to establish an alternative mechanism for demonstrating compliance when a major NO_x emitting facility is unable to meet the applicable RACT emission limitation.

This proposed rulemaking would add § 129.114 (relating to alternative RACT proposal and petition for alternative compliance schedule) to establish that the owner and operator of an air contamination source that is subject to and unable to comply with an applicable presumptive RACT requirement or emission limitation in § 129.112 may propose an alternative RACT requirement or emission limitation.

This proposed rulemaking would add § 129.115 (relating to written notification, compliance demonstration and recordkeeping and reporting requirements) to establish notification, compliance demonstration, recordkeeping and reporting requirements for the owner and operator of an air contamination source subject to this proposed rulemaking.

Affected Parties

The NO_x requirements of proposed §§ 129.111—129.115 (relating to additional RACT requirements for major sources of NO_x and VOCs for the 2015 ozone NAAQS) would apply statewide to the owner and operator of a major NO_x emitting facility and the VOC requirements of proposed §§ 129.111—129.115 would apply statewide to the owner and operator of a major VOC emitting facility that was in existence on or before August 3, 2018. The NO_x requirements or the VOC requirements would apply, as appropriate, when the installation of a new source, modification or change in operation of an existing source after August 3, 2018, results in the source or facility meeting the definition of a major NO_x emitting facility or a major VOC emitting facility. The Department expects that the negative impact on small businesses would be minimal. In those cases where a small business is not able to comply with the specified presumptive RACT requirements, the owner and operator may submit a request to meet NO_x emission limitations by facility-wide or system-wide averaging protocol, or may submit a request for an alternative case-specific requirement or emission limitation for either NO_x emissions, VOC emissions, or both. The flexibility afforded to all businesses, including small businesses, in the proposed rulemaking ensures minimal negative effect on their operations.

The proposed compliance date is January 1, 2023. The proposed RACT requirements would apply to all sources in Pennsylvania that emit or have a potential to emit 100 tons per year (TPY) or more of NO_x or 50 TPY of VOCs. There are approximately 500 Title V facilities in Pennsylvania under the Department's jurisdiction that may be subject to this proposed rulemaking. The Department preliminarily determined that the owners and operators of

approximately 10-30 affected major facilities under the Department's jurisdiction meet the definition of "small business" specified in Section 3 of the Regulatory Review Act. Compliance costs will vary for each facility depending on which compliance option is chosen by the owners and operators of a facility. The Department estimates that implementation of the proposed control measures could reduce NO_x emissions by as much as 9,000 TPY from engines, turbines, and municipal waste combustors.

Advisory Groups

This proposed rulemaking was discussed with the Air Quality Technical Advisory Committee (AQTAC) at its meeting of April 16, 2020. The AQTAC postponed voting and requested additional information for a special meeting on May 7, 2020. After discussion at its meeting of May 7, 2020, the AQTAC voted 17-2-0 to concur with the Department's recommendation to move this proposed rulemaking forward to the Environmental Quality Board (Board) for consideration. AQTAC members requested that the Department clarify the definition of "natural gas compression and transmission facility VOC air contamination source" and evaluate the presumptive NO_x emission limitation for cement kilns. The Department addressed these requests and has revised the proposed rulemaking Annex A accordingly.

This proposed rulemaking was discussed with the Citizens Advisory Council (CAC) Policy and Regulatory Oversight Committee (Committee) on May 19, 2020. On the recommendation of the Committee, the CAC voted unanimously to concur with the Department's recommendation to forward this proposed rulemaking to the Board for consideration. This proposed rulemaking was discussed with the Small Business Compliance Advisory Committee (SBCAC) on April 22, 2020. The SBCAC voted 7-0-0 to concur with the Department's recommendation to forward this proposed rulemaking to the Board for consideration.

Public Comments and Board Hearings

The Department recommends a 60-day public comment period on this proposed rulemaking and either three in-person or virtual public hearings, if necessary, in accordance with the Governor's emergency disaster declaration and based on advice from the Department of Health regarding the mitigation of the spread of novel coronavirus (COVID-19).