

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CHS. 121 and 127 ]

### New Source Review

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 127 (relating to general provisions; and construction, modification, reactivation, and operation of sources) as set forth in Annex A.

This notice is given under Board order at its meeting of November 17, 2009.

#### A. *Effective Date*

These amendments will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

These amendments will be submitted to the Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP) upon final rulemaking.

#### B. *Contact Persons*

For further information, contact Krishnan Ramamurthy, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476 or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (Select: Public Participation).

#### C. *Statutory Authority*

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

#### D. *Background and Summary*

On July 18, 1997, the EPA revised the National Ambient Air Quality Standard (NAAQS) for particulate matter (PM) to add a new standard for fine particles, using fine particulates equal to and less than 2.5 micrometers in diameter (PM<sub>2.5</sub>) as the indicator. The EPA set the health-based (primary) and welfare-based (secondary) PM<sub>2.5</sub> annual standard at a level of 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and the 24-hour standard at a level of 65  $\mu\text{g}/\text{m}^3$  (62 FR 38652). The health-based primary standard is designed to protect human health from elevated levels of PM<sub>2.5</sub>, which have been linked to premature mortality and other important health effects. The secondary standard is designed to protect against major environmental effects of PM<sub>2.5</sub> such as visibility impairment, soiling and materials damage. The following Counties in this Commonwealth have been designated nonattainment for the 1997 fine particulate annual

NAAQS: Allegheny (Liberty-Clairton), Allegheny (remainder), Armstrong, Berks, Beaver, Bucks, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Montgomery and Philadelphia. See 70 FR 944 at 999 (January 5, 2005).

Subsequently, on October 17, 2006, the EPA revised the primary and secondary 24-hour NAAQS for PM<sub>2.5</sub> to 35  $\mu\text{g}/\text{m}^3$  from 65  $\mu\text{g}/\text{m}^3$  (71 FR 61236). The following Counties or portions thereof have been designated by the EPA as nonattainment for the 2006 fine particulate 24-hour NAAQS: Allegheny, Armstrong, Beaver, Bucks, Butler, Cambria, Chester, Cumberland, Dauphin, Delaware, Greene, Indiana, Lancaster, Lawrence, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York. See 74 FR 586 at p. 58758 (November 11, 2009).

On May 16, 2008, the EPA published its final rule for the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)," (73 FR 28321). This Federal regulation requires states with PM<sub>2.5</sub> nonattainment areas to submit revised nonattainment NSR programs to the EPA for SIP approval within 3 years from the date of publication of the final rule, or by May 16, 2011.

The proposed rulemaking would amend the existing nonattainment NSR requirements in Chapter 127, Subchapter E (relating to new source review), to incorporate recently promulgated Federal requirements for PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors. The proposal would add requirements to § 127.203a (relating to applicability determination) and other sections of Subchapter E to expand the applicability of the nonattainment NSR program to include emissions of PM<sub>2.5</sub> and sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) precursors. Because the EPA determined that there is considerable uncertainty related to ammonia as a precursor for PM<sub>2.5</sub>, the proposal does not require ammonia to be regulated as a PM<sub>2.5</sub> precursor. Other clarifying amendments for Chapter 127 would also be proposed.

The proposed rulemaking applies to construction of major stationary sources and major modifications at major stationary sources. A stationary source is a "major source" if its actual emissions or its potential to emit for a specific pollutant equals or exceeds the major source threshold for that pollutant. The PM<sub>2.5</sub> threshold for new sources is 100 tons per year of PM<sub>2.5</sub>. The PM<sub>2.5</sub> threshold for major modifications at existing sources is 10 tons per year of PM<sub>2.5</sub>.

The proposed rulemaking would help assure that the citizens of this Commonwealth will benefit from reduced emissions of PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors from regulated sources. Attaining and maintaining levels of PM<sub>2.5</sub> below the health- and welfare-based NAAQS is important to reduce premature mortality and other health and environmental effects associated with PM<sub>2.5</sub> exposure. To the extent that any of the proposed revisions are more stringent than any Federal requirements, these revisions are reasonably necessary in order to attain and maintain the PM<sub>2.5</sub> NAAQS.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its May 28, 2009, meeting, the AQTAC concurred with the Department's recommendation to seek Board approval of the proposed rulemaking. The Department also consulted with the Citizens Advisory Council on July 21, 2009.

### E. Summary of Regulatory Revisions

The proposed amendments add a new term and definition, "PM2.5," under § 121.1 (relating to definitions). The proposed amendments amend the definitions of the following existing terms under § 121.1 to include the requirements for PM2.5: "regulated NSR pollutant" and "significant." In addition the proposed amendments delete an existing term and definition, "maximum allowable emissions," under § 121.1.

Section 127.201 (relating to general requirements) is proposed to be amended to include a new subsection (g). Under subsection (g), gaseous emissions that condense to form PM at ambient temperatures will be included in PM2.5 and PM-10 emissions in accordance with the following requirements: beginning January 1, 2011, or an earlier date established by the Administrator of the EPA, condensable PM shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM-10 in permits issued under this subchapter; compliance with emissions limitations for PM2.5 and PM-10 issued prior to January 1, 2011, or an earlier date established by the Administrator, will not be based on condensable PM unless required by the terms and conditions of a plan approval, operating permit or the SIP; and applicability determinations made prior to January 1, 2011, or earlier date established by the Administrator, without accounting for condensable PM shall not be considered in violation of this subchapter unless the applicable plan approval, operating permit or SIP includes requirements for condensable PM.

Section 127.201a (relating to measurements, abbreviations and acronyms) is proposed to be amended to include the following acronyms: "PM2.5" and "PM-10." In addition, other minor editorial changes are proposed for this section.

Section 127.202 (relating to effective date) is proposed to be amended to include references to PM2.5.

Section 127.203 (relating to facilities subject to special permit requirements) is proposed to be amended under subparagraph (b)(1)(i) to provide that the aggregated VOC or NO<sub>x</sub> emissions must meet the applicability requirements of paragraph (2) or (3). Paragraphs (2) and (3) of subsection (b) are proposed to be amended to clarify that emissions from a proposed project are included in the applicability provisions.

Section 127.203a (relating to applicability determination) is proposed to be amended to include the following requirements under subsection (a): the owner or operator of the facility shall include in the plan approval application the estimate of an emissions increase in a regulated NSR pollutant from the project; the owner or operator shall calculate an emissions increase in a regulated NSR pollutant from a project in accordance with paragraph (1); if the emissions increase from a project equals or exceeds the applicable emissions rate that is significant, the owner or operator shall calculate a net emissions increase in accordance with paragraph (1)(ii); and if the emissions increase from a project does not exceed the listed applicable emissions rate that is significant, the owner or operator shall calculate the net emissions increase in accordance with paragraph (2).

In addition, minor editorial changes are proposed to be made to this section as well.

Section 127.204 (relating to emissions subject to this subchapter) is proposed to be amended to include some minor editorial changes.

Section 127.206 (relating to ERC general requirements) is proposed to be amended to clarify under subsection (o) that an emission reduction credit (ERC) created for a regulated criteria pollutant may be used for interpollutant offsetting authorized under this subchapter. The "amnesty period" dates under subsection (r) relating to when emission reductions may be used to generate ERCs are proposed to be amended to specify that emission reductions occurring at a facility after April 5, 2005, but prior to the effective date of adoption of this proposed rulemaking may be used to generate ERCs in accordance with this subchapter, if a complete ERC registry application is submitted to the Department by the date 12 months after the effective date of this proposed rulemaking. In addition, other minor editorial changes are proposed for this section.

Section 127.210 (relating to offset ratios) is proposed to be amended to include, among other things, interpollutant offsetting ratios for SO<sub>2</sub> and NO<sub>x</sub>. This section is further proposed to be amended to provide that the emissions offsets shall be of the same NSR-regulated pollutant unless interpollutant offsetting is authorized for a particular pollutant as specified. The offset requirements for PM2.5 emissions or emissions of a PM2.5 precursor may be satisfied by offsetting PM2.5 emissions or emissions of PM2.5 precursors. The emissions offset ratio for PM2.5 is 1 ton per year (tpy) of PM2.5 to 1 tpy of PM2.5. The emissions offset ratio for PM2.5 precursors is one tpy of SO<sub>2</sub> to 1 tpy of SO<sub>2</sub> and 1 tpy of NO<sub>x</sub> to 1 tpy of NO<sub>x</sub>. The PM2.5 interpollutant trading ratio is 40 tpy of SO<sub>2</sub> to 1 tpy of PM2.5, and 200 tpy of NO<sub>x</sub> to 1 tpy of PM2.5.

### F. Benefits, Costs and Compliance

#### Benefits

Overall, the citizens of this Commonwealth will benefit from this proposed rulemaking because it would help to reduce emissions of PM2.5 from major stationary sources. Attaining and maintaining levels of PM2.5 below the health- and welfare-based NAAQS is important to reduce premature mortality and other health effects associated with PM2.5 exposure. Reductions in ambient levels of PM2.5 would also promote improved animal health and welfare, improved visibility, decreased soiling and materials damage and decreased damage to plants and trees.

#### Compliance Costs

The owners and operators of new or modified major facilities would be affected by adoption of the proposed amendments as final-form rulemaking. There are approximately 700 major facilities in this Commonwealth that may be subject to the existing NSR rules if major modifications to those facilities are proposed. The majority of those facilities affected by these regulatory changes are already subject to the existing NSR provisions in Chapter 127, Subchapter E, and also to the requirements of 40 CFR Part 51, Appendix S (relating to emission offset interpretative ruling). It is not anticipated that significant additional costs would be incurred by the affected companies. These proposed amendments would provide increased flexibility for the owners and operators of affected facilities by allowing exchanges of interpollutant offsets.

#### Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing compliance assistance program.

*Paperwork Requirements*

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

*G. Pollution Prevention*

The Federal Pollution Prevention Act of 1990 (42 USCA §§ 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 rulemaking does not directly promote a multimedia approach. The reduced levels of PM2.5, however, would benefit water quality through reduced soiling and quantities of sediment that may run off into waterways. Reduced levels of PM2.5 would therefore promote improved aquatic life and biodiversity, as well as improved animal and plant life on land.

*H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 2010, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the 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 amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

*J. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation 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 April 12, 2010. 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 the Board by April 12, 2010. 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@state.pa.us and must also be received by the Board by April 12, 2010. A subject heading of the proposal 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 the Board to ensure receipt.

*K. Public Hearings*

The Board will hold public hearings in Pittsburgh, Norristown and Harrisburg for the purpose of accepting comments on this proposal. The hearings will be held as follows:

Department of Environmental Protection March 9, 2010  
 Southwest Regional Office 1:00 p.m.  
 Waterfront Conference Room A and B  
 400 Waterfront Drive  
 Pittsburgh, PA 15222-4745

Department of Environmental Protection March 10, 2010  
 Southeast Regional Office 1:00 p.m.  
 Delaware Conference Room  
 2 East Main Street  
 Norristown, PA 19401

Department of Environmental Protection March 12, 2010  
 Southcentral Regional Office 1:00 p.m.  
 Susquehanna A Conference Room  
 909 Elmerton Avenue  
 Harrisburg, PA 17110

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.

JOHN HANGER,  
*Chairperson*

**Fiscal Note:** 7-450. No fiscal impact; (8) recommends adaption

**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:

\* \* \* \* \*

[ *Maximum allowable emissions*—The emission rate calculated using the maximum rated capacity of the source unless the source is subject to enforceable permit conditions which limit operating rate or hours of operation, or both, and the most stringent of the following:

(i) Applicable new source performance standards or standards for hazardous pollutants in 40 CFR Parts 60 and 61.

(ii) Applicable emission limitation under this title.

(iii) The emission rate specified as an enforceable permit. ]

\* \* \* \* \*

**PM2.5**—Particulate matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometer body as measured by the applicable reference method or an equivalent method.

\* \* \* \* \*

*Regulated NSR pollutant*—

\* \* \* \* \*

(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<sub>x</sub> are precursors to ozone in all ozone nonattainment areas.

(B) SO<sub>2</sub> and NO<sub>x</sub> are precursors to PM2.5 in all PM2.5 nonattainment areas.

(iv) PM2.5 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 <sub>x</sub> ):	40 TPY
Sulfur oxides (SO <sub>x</sub> ):	40 TPY
Ozone:	40 TPY of VOCs or NO <sub>x</sub>
Lead:	0.6 TPY
PM-10:	15 TPY
<b>PM2.5:</b>	<b>10 TPY of PM2.5; 40 TPY of SO<sub>2</sub>; 40 TPY of NO<sub>x</sub></b>

\* \* \* \* \*

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

**Subchapter E. NEW SOURCE REVIEW**

**§ 127.201. General requirements.**

\* \* \* \* \*

(g) PM2.5 and PM-10 emissions include gaseous emissions from a facility or activity that condense to form PM at ambient temperatures, if present, in accordance with the following requirements:

(1) Beginning January 1, 2011, or an earlier date established by the Administrator of the EPA, condensable PM shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM-10 in permits issued under this subchapter.

(2) Compliance with emissions limitations for PM2.5 and PM-10 issued prior to January 1, 2011, or an earlier date established by the Administrator, may not be based on condensable PM unless required by the terms and conditions of a plan approval, operating permit or the SIP.

(3) Applicability determinations made prior to January 1, 2011, or an earlier date established by the Administrator, without accounting for condensable PM may not be considered in violation of this subchapter unless the applicable plan approval, operating permit or SIP includes requirements for condensable PM.

**§ 127.201a. Measurements, abbreviations and acronyms.**

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

[ **BAT—Best available technology** ]

BACT—Best available control technology

**BAT—Best available technology**

CEMS—Continuous emissions monitoring system

CERMS—Continuous emissions rate monitoring system

**CO—Carbon monoxide**

CPMS—Continuous parametric monitoring system

[ **CO—Carbon monoxide** ]

ERC—Emission reduction credit

LAER—Lowest achievable emission rate

**lb—Pounds**

MACT—Maximum achievable control technology

**MERC—Mobile emission reduction credit**

**µg/m<sup>3</sup>—Micrograms per cubic meter**

**mg/m<sup>3</sup>—Milligrams per cubic meter**

**NO<sub>x</sub>—Nitrogen oxides**

NSPS—New source performance standard

NSR—New source review

[ **PEMS—Predictive emissions monitoring system**

**lb—Pounds**

**µg/m<sup>3</sup>—Micrograms per cubic meter**

**MERC—Mobile emission reduction credit**

**mg/m<sup>3</sup>—Milligrams per cubic meter**

**NO<sub>x</sub>—Nitrogen oxides** ]

O<sub>2</sub>—Oxygen

PAL—Plantwide Applicability Limit

**PEMS—Predictive emissions monitoring system**

PM—Particulate matter

**PM2.5—Particulate matter less than or equal to 2.5 micrometers**

**PM-10—Particulate matter less than or equal to 10 micrometers**

RACT—Reasonably available control technology

SO<sub>x</sub>—Sulfur oxides

TPY—Tons per year

VOC—Volatile organic compound

**§ 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 issued by the Department after May 19, 2007, **except for PM2.5, which will apply after \_\_\_\_\_** (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*)

(b) For SO<sub>x</sub>, **PM2.5**, 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.**

\* \* \* \* \*

(b) The following provisions apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia County or an area classified as a serious or severe ozone nonattainment area:

(1) The applicability requirements in § 127.203a (relating to applicability determination) apply except as provided by this subsection. The requirements of this subchapter apply if the aggregated emissions determined according to subparagraph (i) or (ii) exceed 25 TPY of NO<sub>x</sub> or VOCs.

(i) The proposed increases and decreases in emissions are aggregated with the other increases in net emissions occurring over a consecutive 5 calendar-year period, which includes the calendar year of the modification or addition which results in the emissions increase. **The aggregated VOC or NO<sub>x</sub> emissions must meet the applicability requirements of paragraph (2) or (3).**

\* \* \* \* \*

(2) An increase in emissions of VOCs or NO<sub>x</sub>, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit less than 100 TPY of VOCs or NO<sub>x</sub>, **including the emissions from the proposed project**, is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO<sub>x</sub> from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not elect to offset at the required ratio, the increase is considered a modification and the BACT requirement is substituted for LAER. The owner or operator of the facility shall comply with all applicable requirements including the BAT requirement.

(3) An increase in emissions of VOCs or NO<sub>x</sub>, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit of 100 TPY or more,

**including the emissions from the proposed project**, is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NO<sub>x</sub> from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator elects to offset at the required ratio, the LAER requirement does not apply. The owner or operator of the facility shall comply with the applicable requirements including the BAT requirement.

\* \* \* \* \*

**§ 127.203a. Applicability determination.**

(a) The Department will conduct an applicability determination during its review of a plan approval application for the construction of a new major facility or modification at an existing major facility under **[ the following provisions: ] this section. The owner or operator of the facility shall include in the plan approval application the estimate of an emissions increase in a regulated NSR pollutant from the project. The owner or operator shall calculate an emissions increase in a regulated NSR pollutant from a project in accordance with paragraph (1). The owner or operator shall calculate a net emissions increase in accordance with paragraph (1)(ii), if the emissions increase from a project equals or exceeds the applicable emissions rate that is "significant" as defined in § 121.1 (relating to definitions). If the emissions increase from a project does not exceed the listed applicable emissions rate that is significant, the owner or operator shall calculate the net emissions increase in accordance with paragraph (2).**

(1) As part of the plan approval application, the owner or operator of the facility shall calculate whether a significant emissions increase and a significant net emissions increase will occur as a result of a physical change or change in the method of operation. The owner or operator of the facility shall use the procedures in subparagraph (i) to calculate the emissions increase in a regulated NSR pollutant due to the project, and the procedures in subparagraph (ii) to calculate the net emissions increase in a regulated NSR pollutant. A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase and a significant net emissions increase. If the project causes a significant emissions increase, the project is a major modification if it also results in a significant net emissions increase.

(i) The emissions increase in a regulated NSR pollutant due to the project will be the sum of the following:

(A) For existing emissions units, an emissions increase of a regulated NSR pollutant is the difference between the projected actual emissions and the baseline actual emissions for each unit, as determined in paragraphs (4) and (5). **[ Exclude, in ]** When calculating an increase in emissions that results from the particular project, **exclude** that portion of the unit's emissions following completion of the project that existing units could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that is also unrelated to the particular project, including all increased utilization due to product demand growth as specified in paragraph (5)(i)(C).

\* \* \* \* \*

(2) As part of the plan approval application for a proposed de minimis emission increase, the owner or operator of the facility shall use subparagraphs (i) and (ii) to calculate the net emissions increase. For a proposed de minimis increase in which the net emissions increase calculated using subparagraphs (i) and (ii) meets or exceeds the emissions rate that is significant, only the emissions offset requirements [ in § 127.205(3) (relating to special permit requirements) ] of this subchapter apply to the net emissions increase.

\* \* \* \* \*

§ 127.204. Emissions subject to this subchapter.

(a) In determining whether a project exceeds the emission rate that is significant or the significance levels specified in § 127.203 (relating to facilities subject to special permit requirements), the potential to emit, actual emissions and actual emissions increase shall be determined by aggregating the emissions or emissions increases from contiguous or adjacent properties under the common control of a person or entity. [ This includes ] The aggregation must include emissions resulting from the following: flue emissions, stack and additional fugitive emissions, material transfer, use of parking lots and paved and unpaved roads on the facility property, storage piles and other emission generating activities resulting from operation of the new or modified facility.

\* \* \* \* \*

§ 127.206. ERC general requirements.

\* \* \* \* \*

(o) An ERC created for a regulated criteria pollutant shall only be used for offsetting or netting an emissions increase involving the same criteria pollutant **except interpollutant offsetting authorized under this subchapter.**

(p) [ A ] The owner or operator of a source or facility which has registered ERCs with the Department may not exceed the emissions limitation or violate other permit conditions established in generating the ERCs.

\* \* \* \* \*

(r) Emission reductions occurring at a facility after [ January 1, 2002 ] April 5, 2005, but prior to [ May 19, 2007 ] \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), may be used to generate ERCs in accordance with this subchapter, if a complete ERC registry application is submitted to the Department by [ May 19, 2008 ] (Editor's note: The blank refers to the date 12 months after the effective date of adoption of this proposed rulemaking.).

§ 127.210. Offset ratios.

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

*Required Emission [ Reductions From ] Offsets For Existing Sources, Expressed in Tons per Year*

Pollutant/Area	Flue Emissions	Fugitive Emissions
PM-10 and SO <sub>x</sub>	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 <sub>x</sub>		
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
<b>PM2.5</b>		
<b>PM2.5 Nonattainment Area</b>		
<b>PM2.5</b>	1:1	1:1
<b>PM2.5 Precursors</b>		
SO <sub>2</sub>	1:1	1:1
NO <sub>x</sub>	1:1	1:1
<b>PM2.5 Interpollutant Trading Ratios</b>		
SO <sub>2</sub>	40:1	40:1
NO <sub>x</sub>	200:1	200:1

(b) In complying with the emissions offset requirements of this subchapter, the emissions offsets obtained shall be of the same NSR regulated pollutant unless interpollutant offsetting is authorized for a particular pollutant as specified in subsection (a). The offset requirements for PM2.5 emissions or emissions of a PM2.5 precursor may be satisfied by offsetting PM2.5 emissions or emissions of the PM2.5 precursors SO<sub>2</sub> or NO<sub>x</sub>.

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