



News for Immediate Release

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DEP Announces Public Comment Period for Guidance on Air Aggregation Determinations

Harrisburg — Department of Environmental Protection Secretary Mike Krancer announced today that DEP has submitted technical guidance for single source determinations for oil and gas operations, also known as “air aggregation” determinations, to the Pennsylvania Bulletin for public comment. The public comment period will close Nov. 21.

This guidance deals with the process of determining whether two or more stationary air emissions sources should be aggregated together and treated as a “single source” when it comes to air permitting programs.

“Natural gas holds great promise as a clean-burning fuel that could greatly reduce air emissions associated with electricity production and transportation,” Krancer said. “It has been recognized that the use of natural gas can have very beneficial impacts on air quality.”

This guidance, which is subject to public review and comment, involves three sets of regulations: the federal Prevention of Significant Deterioration regulations, which the state incorporates and implements in their entirety; the Pennsylvania nonattainment New Source Review regulations; and the Title V permitting program.

“This takes a practical, common-sense and legally required approach to air aggregation issues,” Krancer said. “DEP’s state Air Quality program already regulates this industry.”

New sources, including some natural gas processing operations, are required by state law to meet stringent air emissions control requirements, which prevent, reduce or control emissions with the use of the best available control techniques or equipment, Krancer said.

Krancer said that the program also regulates air emissions in the oil and gas industry via plan approvals along with both general and operating permits.

The test for determining whether or not to aggregate comes out of federal case law from 1979 and the federal regulations stemming from that case, along with the commonwealth’s regulations, which mirror the federal regulations.

The law states that to be aggregated, the different sources must belong to the same industrial grouping, must be located on one or more contiguous or adjacent properties and must be under the control of the same person. All three of these conditions must be met if the sources are going to be aggregated.

“Over time, there was a tendency by some regulators to morph the meaning of ‘contiguous’ or ‘adjacent’ properties to mean only that operations on the properties be ‘interdependent,’” Krancer said. “This view has been expressed in various federal Environmental Protection Agency (EPA) recommendation letters or policy statements in recent years after the court case on this topic in 1979 and after the EPA’s adoption of the regulations on this topic in 1980. That interpretation is not supported by the court decision, the EPA or state regulations.”

DEP’s technical guidance relies on the plain meaning of the words in the regulations and the plain meaning of the words “contiguous or adjacent,” which mean the distance or spatial relationship between locations.

A similar approach was recently affirmed by the West Virginia Air Quality Board whose analysis focused on the proximity of the properties. In addition, other natural gas-producing states, including Texas, Oklahoma and Louisiana, use a quarter-mile rule of thumb, meaning that sources located a quarter mile apart are considered contiguous or adjacent.

“Every case remains, as it always has, unique, with its own facts and circumstances,” Krancer said. “The single source determination test will continue to be applied on a case-by-case basis, depending on the facts of each particular case.”

DEP’s Air Quality permitting staff will begin implementing the technical guidance in permitting decisions on an interim basis immediately, while public comments are being received and considered.

For more information and to view the technical guidance in its entirety, visit www.dep.state.pa.us.

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