

DEP Update on Rulemakings and State Implementation Plan Revisions October 15, 2020 AQTAC Meeting

Rulemakings

Final-form Rulemakings

Title V Fees and Operating Permit Fees –The proposed rulemaking was published in the Pennsylvania Bulletin on April 13, 2019. The public comment period opened on April 13, 2019, and closed June 17, 2019. The Environmental Quality Board (EQB) received public comments from approximately 1,400 commenters, including the House Environmental Resources and Energy Committee, the House of Representatives, industry, environmental groups, and the Independent Regulatory Review Commission (IRRC). The draft final-form rulemaking Annex A was discussed at the December 12, 2019 AQTAC meeting and with the SBCAC on January 22, 2020. AQTAC voted 10-3-0 (yes-no-abstain) and the SBCAC voted 3-2-0 to concur with the DEP’s recommendation to present the final-form rulemaking to the EQB. DEP presented this final-form rulemaking to the EQB on July 21, 2020, who approved it 17-2-0. The final-form rulemaking is on the IRRC agenda for the September 17, 2020 meeting.

Proposed Rulemakings

RACT III - On October 17, 2019, and February 13, 2020, DEP presented initial RACT III rulemaking concepts to AQTAC. Draft proposed rulemaking language was discussed with AQTAC on April 16, 2020. The draft proposed rulemaking language was discussed with SBCAC on April 22, 2020. SBCAC voted 7-0-0 (yes-no-abstain) to concur with the Department’s recommendation to move the proposed rulemaking forward to the EQB. The draft proposed rulemaking was presented to AQTAC on May 7, 2020, for action. AQTAC voted 17-2-0 to concur with the Department’s recommendation to move the proposed rulemaking forward to the EQB, with the understanding that DEP would revise the definition for “natural gas compression and transmission facility VOC air contamination source.” The draft proposed rulemaking language was discussed with the CAC PRO on May 8, 2020. The CAC discussed the draft proposal on May 19, 2020, and concurred with the Department’s recommendation 17-0-0 to move the proposal forward to the EQB for consideration.

The Third Circuit Court of Appeals issued its opinion in *Sierra Club v EPA* on August 27, 2020. Sierra Club challenged the EPA’s approval of Pennsylvania’s 2016 RACT II regulation. Sierra Club’s challenge was to three aspects pertaining to coal-fired power plants with selective catalytic regeneration (SCR) controls.

Specifically, Sierra Club challenged the EPA’s approval of Pennsylvania’s NOx emissions limit of 0.12 as RACT, the 600-degree temperature threshold for the operation of SCR controls, and the inlet temperature recordkeeping and reporting requirements. The Court has vacated and remanded EPA’s approval. The Department is evaluating the Third Circuit’s opinion and is assessing the ramifications of the Court’s decision on the RACT III proposed rulemaking.

DEP anticipates bringing the proposed rulemaking to the EQB in the 4th quarter of 2020.

Stage I & II – DEP presented the draft proposed rulemaking Annex A to AQTAC, SBCAC and CAC on April 11, April 17, May 7, and May 22, 2019, respectively. They all concurred with forwarding the proposed rulemaking to the EQB. On May 19, 2020, the EQB voted unanimously to adopt the proposed rulemaking. The proposed rulemaking was published for public comment in the Pennsylvania Bulletin on September 26, 2020. The public comment period closes on November 30, 2020. Virtual public hearings are scheduled for October 27, 28, and 29, 2020.

Regional Greenhouse Gas Initiative (RGGI) - On October 3, 2019, Governor Wolf took executive action instructing DEP to join RGGI, a market-based collaboration among nine Northeast and Mid-Atlantic states to reduce greenhouse gas emissions and combat climate change while generating economic growth. DEP presented additional details of and concepts for Pennsylvania's regulation to AQTAC, CAC and SBCAC on February 13, February 18 and April 22, respectively. On April 23, 2020, DEP held a special joint informational meeting with the AQTAC and CAC to present the modeling results associated with Pennsylvania's participation in a CO2 budget trading program. DEP presented the draft proposed rulemaking Annex A to the AQTAC, CAC and SBCAC on May 7, May 19 and July 22, 2020, respectively. By votes of 9-9-1, 4-9-1 and 3-4-0, respectively, the three advisory groups failed to concur with the Department's recommendation to forward the proposed rulemaking to the EQB. The proposed rulemaking was considered by the EQB on September 15, 2020; it passed by a 13-6-0 vote and should be posted for public comment in the fourth quarter of 2020.

Control of Existing Sources of Emissions from the Oil and Natural Gas Industry - DEP presented the draft proposed rulemaking Annex A to AQTAC, SBCAC and CAC PRO subcommittee on April 11, April 17 and May 7, 2019, respectively. On June 18, 2019, the CAC concurred with moving the proposed rulemaking to the EQB. DEP presented the proposed rulemaking to the EQB on December 17, 2019. The EQB adopted the proposed rulemaking. The proposed rulemaking would establish RACT requirements for VOCs from existing oil and natural gas production facilities, compressor stations, processing plants, and transmission stations. It would also reduce methane emissions as a co-benefit. The proposed rulemaking was published for public comment in the Pennsylvania Bulletin on May 23, 2020 and the public comment period closed July 27, 2020. The EQB received 4,509 comments from approximately 3,514 commenters, including 121 comments from oral testimony at the virtual public hearings held on June 22, 23, and 24. The Bureau of Air Quality is currently drafting a Comment and Response document.

Proposed Rulemaking: Large Petroleum Dry Cleaners, Shipbuilding and Repair Coatings Operations, and SOxMI Reactors, Distillation, and Air Oxidation Processes – The Department presented this rulemaking as an informational item to the committee on August 13. The committee heard the presentation today of the action item.

Hydrofluorocarbons - DEP presented HFC rulemaking concepts to AQTAC on April 16, 2020, and to the SBCAC on April 22, 2020. DEP anticipates bringing proposed rulemaking language to the committees later this year.

State Implementation Plan (SIP) Revisions
Nonregulatory SIP Revisions

1997 8-hour Ozone NAAQS 2nd Maintenance Plans

The Department published all twelve proposed State Implementation Plan (SIP) revisions in the *Pennsylvania Bulletin* for the following 1997 8-hour ozone nonattainment areas: Altoona (Blair County); Clearfield/Indiana Area; Erie County; Franklin County; Greene County; Harrisburg-Lebanon-Carlisle Area; Johnstown (Cambria County); Scranton/Wilkes-Barre Area; State College (Centre County); Tioga County; York/Adams Area; Youngstown-Warren-Sharon Area (OH-PA). On February 27, 2020, six of the twelve SIP revisions were submitted to EPA for approval; the final six SIP revisions were submitted to EPA on March 10, 2020.

On September 3, 2020, EPA proposed approvals of the Blair County, Harrisburg-Carlisle-Lebanon Area, and Scranton/Wilkes-Barre Area 1997 8-hour ozone limited maintenance plan SIP revisions. The comment periods will end on October 5, 2020.

2015 8-hour Ozone Infrastructure State Implementation Plan

The Infrastructure State Implementation Plan (I-SIP) for the 2015 Ozone 8-hour NAAQS was published in the PA Bulletin on March 14, 2020. The Department is working to submitting the final package to EPA in the near future.

Regulatory SIP Revisions

Low Sulfur Fuel Oil 15 ppm – The final-form rulemaking was published in the Pennsylvania Bulletin on July 25, 2020, with a compliance date of September 1, 2020. Additionally, on July 25, 2020, DEP issued a limited suspension of enforcement for No. 2 and lighter commercial fuel oil due to the unusually warm winter of 2019-2020 which left remaining inventories at a high level. This enforcement discretion is provided from September 1, 2020 through February 28, 2021, and only applies to fuel that is already stored at distributors or retail outlets before July 25, 2020. The final-form low sulfur fuel oil regulation was submitted to the EPA on September 4, 2020, as a revision to the Pennsylvania SIP.

PM_{2.5} Precursors – The final-form rulemaking was published in the *Pennsylvania Bulletin* on December 21, 2019. The final-form regulation implements recently promulgated federal requirements for the regulation of volatile organic compounds (VOC) and ammonia as precursor emissions to the formation of PM_{2.5}. 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 DEP. DEP submitted the final-form regulation to the EPA on March 10, 2020, as a revision to the Pennsylvania SIP. EPA is in the process of reviewing this SIP revision.