

# **DEP Update on Rulemakings and State Implementation Plan Revisions October 14, 2021 AQTAC Meeting**

## **Rulemakings**

### ***Final-form Rulemakings***

#### **Control of Existing Sources of Emissions from the Oil and Natural Gas Industry**

On October 27, 2016, EPA published Control Techniques Guidelines for the Oil and Natural Gas Industry (O&G CTG). The proposed rulemaking establishes RACT requirements for volatile organic compounds (VOCs) from existing oil and natural gas production facilities, compressor stations, processing plants, and transmission stations. In December 2019 the EQB voted to publish the proposed rulemaking for public comment. The rulemaking was published, three virtual hearing were held, and the comment period ended in July 2020. The Department received 4,509 letters of comments from approximately 36,100 commentators and 121 oral testimonies at the public hearings. DEP anticipates advancing the draft final-form rulemaking to the advisory committees during the first quarter of 2022.

#### **Stage II Vapor Recovery Revision**

With the advent of onboard vehicle vapor recovery systems, Stage II vapor recovery at the gasoline pump has become redundant and, in some cases, counterproductive. In response, the Department has proposed regulations which would require the decommissioning of vacuum-assisted vapor recovery systems at gasoline dispensing facilities in the 5-county Philadelphia and 7-county Pittsburgh-Beaver Valley areas. However, the proposed rulemaking would add requirements for annual leak testing, low-permeation hoses, and dripless nozzles. In May 2020, the EQB voted unanimously to adopt the proposed rulemaking. The proposed rulemaking was published for public comment, three virtual public hearings were held, and the public comment period ended in November 2020. DEP presented the draft final-form rulemaking to AQTAC, SBCAC, and CAC on April 8, May 19, 2021, and June 15, 2021, respectively. DEP anticipates presenting it to the EQB during the fourth quarter of 2021.

#### **Regional Greenhouse Gas Initiative (RGGI) (CO2 Budget Trading Program)**

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. On September 15, 2020, the EQB adopted the proposed rulemaking by a vote of 13-6. The proposed rulemaking was published for public comment, ten virtual hearings were held and the public comment period closed on January 14, 2021. Over 14,000 comments were received. DEP presented an update to AQTAC and the CAC on April 8 and 20, 2021, respectively. DEP presented the draft final-form rulemaking to AQTAC on May 17, 2021, and the CAC and SBCAC on May 19, 2021. By a roll-call vote, each committee voted to recommend to DEP that the final-form regulation be presented to the EQB. The EQB adopted the final-form regulation at its July 13, 2021 meeting and IRRC approved the regulations on September 1, 2021.

### ***Proposed Rulemakings***

#### **RACT III Major Sources of NO<sub>x</sub> and VOC for the 2015 Ozone NAAQS**

In 2015, EPA revised the primary and secondary NAAQS for ozone. A re-evaluation of RACT is required each time a revised ozone NAAQS is promulgated for nonattainment areas. Because the entire Commonwealth is in the Ozone Transport Region and is treated as a moderate nonattainment area, RACT is applicable to major sources of nitrogen oxides (NO<sub>x</sub>) and/or VOCs statewide. DEP presented draft proposed RACT III rulemaking language to AQTAC, SBCAC and CAC in April and May 2020. On May 19, 2021, the EQB voted to adopt the proposed rulemaking. The proposed rulemaking was published in the Pennsylvania Bulletin on August 7, 2021, with a 67-day public comment period closing on October 12, 2021. Three public hearings were held on September 7, 8, and 9, and no public commentators participated.

#### **Large Petroleum Dry Cleaners, Shipbuilding and Repair Coatings Operations, and SOCMR Reactors, Distillation, and Air Oxidation Processes**

This proposed RACT rulemaking is based on EPA's Control Technique Guidelines (CTG) for these three industries. The proposed rulemaking would control VOC emissions from certain existing sources to meet requirements under the Clean Air Act and the U.S. Environmental Protection Agency's (EPA) 2015 Ozone Implementation Rule. The Department presented the draft proposed rulemaking to AQTAC, SBCAC, CAC PRO and CAC on October 15, October 28, November 11, and November 17, 2020, respectively. The EQB adopted the proposed rulemaking on September 21, 2021.

#### **Proposed Amendments to the Pennsylvania Clean Vehicles (PCV) Program**

The Bureau of Air Quality is developing amendments to the PCV Program (Chapter 126, Subchapter D) that would adopt the California Air Resource Board (CARB) Zero Emission Vehicle (ZEV) program adding a sales percentage requirement beginning for model year 2025 and require automakers to demonstrate compliance with the already adopted CARB greenhouse gas (GHG) fleet average requirement. The Bureau plans to present a draft proposed rulemaking Annex A to AQTAC and SBCAC in the fourth quarter.

### **State Implementation Plan (SIP) Revisions**

#### ***Nonregulatory SIP Revisions***

#### **1997 8-hour Ozone NAAQS 2<sup>nd</sup> Maintenance Plans**

In 2020, DEP submitted twelve 1997 8-hour ozone Second Maintenance Plan SIP revisions to the EPA for approval for the following 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). As of September 2, 2021, EPA has issued final approvals for all 12 SIP revisions.

## 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 submitted the SIP revision package to the EPA on April 20, 2021. It is under review by the EPA.

### ***Regulatory SIP Revisions***

#### Title V Fees and Operating Permit Fees

This rulemaking increases certain existing application and permit-related fees and establishes additional application and permit-related fees. The final-form rulemaking was published in the *Pennsylvania Bulletin* on January 16, 2021. DEP submitted the SIP revision to the EPA on July 23, 2021. It is under review by the EPA.

#### Reasonably Available Control Technology (RACT II)

In May 2019, EPA published conditional approval of Pennsylvania's RACT II SIP revision based on DEP's commitment to submit all remaining case-by-case RACT revisions no later than May 9, 2020. DEP successfully submitted all case-by-case SIP revisions to the EPA before May 9, 2020.

In July 2019, the Sierra Club and Earthjustice filed a petition in the US Court of Appeals for the Third Circuit challenging EPA's Conditional Approval. In August 2020, the Court vacated and remanded three aspects of EPA's approval of DEP's RACT II Rule: 1) Emission limits for coal-fired boilers equipped with selective catalytic reduction control devices; 2) SCR operating temperature-based exemptions; and 3) the SCR temperature reporting requirement.

In late November 2020, DEP and the Allegheny County Health Department issued letters to facilities with coal-fired boilers equipped with SCR requiring that they submit case-by-case RACT evaluations no later than April 1, 2021. The case-by-case evaluations have been received and are being reviewed.