

DEP Update on Rulemakings and State Implementation Plan Revisions April 7, 2022 AQTAC Meeting

Rulemakings

Final-form Rulemakings

Control of VOC Emissions from Oil and Natural Gas Sources

On October 27, 2016, the EPA published Control Techniques Guidelines for the Oil and Natural Gas Industry (O&G CTG). The draft final-form rulemaking will adopt reasonably available control technology (RACT) requirements and RACT emission limitations for oil and natural gas sources of volatile organic compound (VOC) emissions. These sources include: storage vessels in all segments except natural gas distribution, natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, reciprocating compressors, centrifugal compressors and fugitive emission components. The rulemaking was published, three virtual hearings were held, and the comment period ended in July 2020. The Department received 121 oral testimonies at the public hearings and approximately 4,500 comments. When the multiple signatories to individual letters and petitions are included, the total number of individuals and organizations expressing an opinion on the proposed rulemaking is over 36,000.

The Department presented the draft final-form Annex A to the Air Quality Technical Advisory Committee (AQTAC) on December 9, 2021, the Citizens Advisory Council (CAC) on January 18, 2022, and the Small Business Compliance Advisory Committee (SBCAC) on January 27, 2022. The Environmental Quality Board (EQB) voted to adopt the final-form rulemaking on March 15, 2022. The final-form rulemaking will be presented to the Independent Regulatory Review Commission (IRRC) in the second quarter of 2022 and sent to the Office of Attorney General and the Senate and House Environmental Resources and Energy Committees prior to publication in the *Pennsylvania Bulletin* as a final-form rulemaking. Upon publication as a final-form rulemaking, the regulation will be submitted to the EPA as a revision to the Commonwealth's State Implementation Plan (SIP). The Department must submit the final regulation to the EPA as a SIP revision by June 16, 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. The final-form rulemaking establishes requirements for the decommissioning of vacuum-assisted vapor recovery systems at gasoline dispensing facilities in the 5-county Philadelphia and 7-county Pittsburgh-Beaver Valley areas as well as requirements for annual leak testing, low-permeation hoses, and dripless nozzles. 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, the SBCAC, and the CAC on April 8, May 19, 2021, and June 15, 2021, respectively. The Department presented the final rulemaking to the EQB on November 16, 2021, and the Board voted to adopt the final rulemaking. The final-form rulemaking was approved by IRRC on January 26, 2022. After

review by the Attorney General's Office, the final-form rulemaking was published in the *Pennsylvania Bulletin* on March 26, 2022.

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 eleven 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. 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 the Independent Regulatory Review Commission (IRRC) approved the regulation on September 1, 2021.

RACT III Major Sources of NO_x and VOC for the 2015 Ozone NAAQS

In 2015, the EPA revised the primary and secondary National Ambient Air Quality Standards (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 oxides of nitrogen (NO_x) and/or VOCs statewide. The final-form rulemaking establishes additional presumptive RACT requirements and RACT emission limitations for certain major stationary sources of NO_x and VOC emissions in existence on or before August 3, 2018, to address the 2015 8-hour ozone NAAQS. 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. Written comments were received from 24 commentators. Three public hearings were held on September 7, 8, and 9, and no public commentators participated. The Department will present the draft final-form rulemaking Annex A to AQTAC on April 7, 2022, and anticipates presenting to SBCAC and CAC in the second quarter of 2022.

Proposed Rulemakings

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

This proposed RACT rulemaking is based on the 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 EPA 2015 Ozone Implementation Rule. The Department presented the draft proposed rulemaking to AQTAC, SBCAC, CAC Policy and Regulatory Oversight Committee (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. The proposed rulemaking was published in the *Pennsylvania Bulletin* on January 29, 2022. Three hearings were held on March 1, 3, and 4 in

Harrisburg, Pittsburgh, and Norristown, respectively, and no public commentators participated. The public comment period closed on April 4, 2022.

State Implementation Plan (SIP) Revisions

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, the 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 (SCR) 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 and draft operating permits have been published in the *Pennsylvania Bulletin*.