

# **DEP Update on Rulemakings and State Implementation Plan Revisions February 10, 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 Department anticipates advancing the final-form rulemaking to the Environmental Quality Board (EQB) in the first quarter of 2022. Assuming adoption of the final-form rulemaking by the EQB, the final-form rulemaking will also need to be approved by the Independent Regulatory Review Commission (IRRC), 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 17-2. The final-form rulemaking was approved by IRRC on January 26, 2022. After

review by the Attorney General's Office, the Department anticipates publication of the final-form rulemaking in the Pennsylvania Bulletin in first quarter 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<sub>x</sub> 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<sub>x</sub>) and/or VOCs statewide. The final-form rulemaking establishes additional presumptive RACT requirements and RACT emission limitations for certain major stationary sources of NO<sub>x</sub> 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 anticipates presenting the draft final-form rulemaking Annex A to the committees 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 will be published in the *Pennsylvania Bulletin* on January 29, 2022. Three hearings are scheduled for March 1, 3, and 4

in Harrisburg, Pittsburgh, and Norristown, respectively. The public comment period will close April 4, 2022.

### 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 by adding a sales percentage requirement beginning for model year 2026 and requiring motor vehicle manufacturers to demonstrate compliance with the already adopted CARB greenhouse gas (GHG) fleet average requirement. The Department presented the draft proposed rulemaking Annex A to AQTAC on October 14, 2021, SBCAC on October 27, 2021, and CAC and the Environmental Justice Advisory Board (EJAB) on November 16, 2021.

### 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 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 are being reviewed and subsequently being published in the *Pennsylvania Bulletin*.