

Update on Rulemakings and State Implementation Plan (SIP) Revisions March 9, 2023, AQTAC Meeting

Final Rulemakings

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

The final-form rulemaking for the Control of VOC Emissions from Unconventional Oil and Natural Gas Sources was published in the *Pennsylvania Bulletin* on December 10, 2022. The final-omitted emergency-certified rulemaking for the Control of VOC Emissions from Conventional Oil and Natural Gas Sources was published in the *Pennsylvania Bulletin* on December 10, 2022. The PDF versions of these rulemakings in the *Pennsylvania Bulletin* serve as the official regulations for these sources until the regulations are uploaded to the *Pennsylvania Code*. The regulations are anticipated to be uploaded to the *Pennsylvania Code* in March 2023.

The Pennsylvania Department of Environmental Protection's (DEP) Bureau of Air Quality (BAQ) submitted the State Implementation Plan (SIP) revision to the U.S. Environmental Protection Agency (EPA) on December 12, 2022. EPA deemed the SIP submittal administratively complete on December 14, 2022. This completeness determination rescinded the 2:1 offset sanctions that took effect on June 16, 2022, as a result of the EPA's November 16, 2020, Finding of Failure to Submit (FFS). EPA issued this FFS because Pennsylvania failed to submit a SIP revision addressing the 2016 Oil & Gas Control Techniques Guidelines (CTG) for the 2008 ozone National Ambient Air Quality Standard (NAAQS). The completeness determination halts EPA's mandatory imposition of federal highway funding sanctions that were set to take effect in Pennsylvania on December 16, 2022. The completeness determination also stopped the sanctions clock triggered by EPA's December 16, 2021, FFS that EPA issued based upon Pennsylvania's failure to submit a SIP revision addressing the 2016 Oil & Gas CTGs for the 2015 ozone NAAQS. Next steps include EPA's forthcoming evaluation of the approvability of this SIP submission in accordance with the applicable technical and Reasonably Available Control Technology (RACT) requirements under the federal Clean Air Act (CAA).

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

In 2015, EPA revised the primary and secondary NAAQS for the ozone criteria pollutant. A re-evaluation of RACT is required each time a revised ozone NAAQS is promulgated for both nonattainment and Ozone Transport Region areas for major sources of nitrogen oxides (NO_x) or volatile organic compounds (VOCs). DEP presented the draft proposed RACT III major sources rulemaking language to the Air Quality Technical Advisory Committee (AQTAC), Small Business Compliance Advisory Committee (SBCAC) and Citizens Advisory Council (CAC) in April and May of 2020. On May 19, 2021, the Environmental Quality Board (EQB) voted to adopt the proposed rulemaking, which was published in the *Pennsylvania Bulletin* on August 7, 2021, with a 67-day public comment period that closed on October 12, 2021. Three public hearings were held with no attendees. DEP received comments from 24 commentators and prepared a Comment and Response Document. DEP presented the draft final-form rulemaking to AQTAC, CAC, and SBCAC in April 2022. At its May 18, 2022, meeting, the CAC voted to

provide a letter on the rulemaking to BAQ regarding its input on the final-form regulation. The EQB adopted the final rule on August 9, 2020, by a 17-2 vote. The Independent Regulatory Review Commission (IRRC) unanimously approved the rulemaking on September 15, 2022. The rulemaking was published in the *Pennsylvania Bulletin* on November 12, 2022 and is anticipated to be uploaded to the *Pennsylvania Code* in February 2023. The federally mandated deadline for regulated facilities to comply was January 1, 2023. A SIP revision was submitted to EPA on January 13, 2023.

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

This RACT rulemaking is based on EPA's Control Technique Guidelines (CTG) for the large petroleum dry cleaners, shipbuilding and repair coatings operations, and synthetic organic chemical manufacturing industries. The proposed rulemaking controls VOC emissions from certain existing sources to meet requirements under the CAA and EPA's 2015 Ozone Implementation Rule. DEP presented the draft proposed rulemaking to AQTAC, SBCAC, CAC Policy and Regulatory Oversight Committee (PRO), and CAC in the fall of 2020. DEP presented the proposed rulemaking to the EQB on September 21, 2021, which unanimously adopted the proposed rulemaking. The proposed rulemaking was published in the *Pennsylvania Bulletin* in January with a 66-day public comment period that closed on April 4, 2022. One commentator submitted comments. Three public hearings were held on March 1, 3, and 4, 2022, with no testimony received. IRRC submitted comments to the EQB on May 4, 2022.

DEP presented the draft final-form regulation to CAC PRO, CAC, AQTAC, SBCAC, and EQB on June 27, July 19, August 18, August 24, and October 12, 2022, respectively. IRRC unanimously approved the rulemaking on November 17, 2022, and was it published in the *Pennsylvania Bulletin* on January 21, 2023. The PDF version of this rulemaking will serve as the official regulations for these categories of sources until the regulations are uploaded to the *Pennsylvania Code*, which is likely to occur in the 2nd quarter of 2023.

Regulatory State Implementation Plan (SIP) Revisions

Reasonably Available Control Technology (RACT II)

On May 25, 2022, the EPA issued a proposed notice for a Federal Implementation Plan (FIP) addressing RACT requirements for certain sources in Pennsylvania. This FIP proposed to set emission limits for NO_x emitted from coal-fired electric generating units (EGUs) equipped with selective catalytic reduction (SCR) controls to meet the RACT requirements for the 1997 and 2008 ozone NAAQS. The FIP was proposed to ensure that the EPA can, if necessary, meet a court-ordered deadline requiring the EPA to approve an amended SIP or issue a FIP by August 27, 2022. DEP submitted comments in opposition to the FIP.

On May 26, 2022, DEP submitted a RACT II SIP revision for Homer City, Keystone, and Conemaugh EGUs. On June 6, 2022, DEP a submitted RACT II SIP revision for Montour EGU. All four facilities filed appeals to the Environmental Hearing Board regarding the terms and conditions of their RACT II permits.

On August 31, 2022, EPA published the final FIP setting emission limits for NO_x at Conemaugh, Homer City, Keystone and Montour EGUs. In the final rule, EPA adjusted its rate calculation for facilities with more than one unit and made additional changes in response to technical information received. The final pound per million British thermal units (lb/MMBtu) emission limit for Conemaugh EGU was lowered, while the emission limits for Homer City and Montour EGUs were raised. Keystone's emission limit remained roughly the same. Conemaugh, Keystone and Homer City have filed petitions to review in the U.S. Court of Appeals for the Third Circuit (Third Circuit Court).

Stage II Vapor Recovery Revision

The final-form rulemaking was published in the *Pennsylvania Bulletin* on March 26, 2022. A SIP revision submittal is being prepared.

Non-Regulatory SIP Revisions

2010 Sulfur Dioxide (SO₂) NAAQS Attainment Demonstration SIP Revisions

DEP submitted to EPA the required 2012 SO₂ NAAQS Attainment Demonstration SIP revision for Indiana and Armstrong counties in October 2017. EPA published its intent to approve the SIP in July 2018. EPA received seven comments on this action. In response to these comments, DEP submitted supplemental SIP information to the EPA in January 2020. On October 19, 2020, EPA published its approval of the attainment demonstration.

On December 18, 2020, Sierra Club, Clean Air Council, and Citizens for Pennsylvania's Future sued EPA in the 3rd Circuit Court regarding the EPA's approval of the attainment demonstration plan. On April 5, 2021, the U.S. Department of Justice (DOJ), on EPA's behalf, filed a motion in the Third Circuit Court requesting the court to remand without vacatur EPA's October 19, 2020, approval of Pennsylvania's attainment demonstration plan. Pennsylvania, as an intervenor in the case, took no position on the DOJ's motion.

On August 17, 2021, the Third Circuit Court granted EPA's motion to remand without vacatur. The court's order states that the remand proceedings shall be concluded within 12 months of the date of the order and directs the parties to file a status report 11 months from the date of the order.

On March 17, 2022, EPA published a proposed partial approval/partial disapproval of Pennsylvania's SIP revision for the Indiana 2010 SO₂ 1-Hour NAAQS Nonattainment Area. The partial disapproval focuses on the calculation of the SO₂ permit limit averaging periods. The public comment period closed on April 18, 2022. On August 18, EPA published a Final Partial Approval/Partial Disapproval of the Department's SIP revision. DEP must submit and EPA must approve a SIP revision within 18 months (by March 2024) or mandatory sanctions will apply.

Determinations of Attainment by the Attainment Date (DAAD) 2015 Ozone NAAQS

On October 7, 2022, EPA published a final rule: Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as

Marginal for the 2015 Ozone NAAQS. This rule became effective on November 7, 2022. Action was taken on 28 nonattainment areas classified as marginal for the 2015 ozone NAAQS. Of those 28 nonattainment areas, five areas attained the standard, 22 failed to attain it, and one area received an extension. These areas were required to attain the 2015 ozone NAAQS by August 3, 2021. The Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) Area was reclassified from marginal to moderate nonattainment. The “bumped up” area includes Bucks, Chester, Delaware, Montgomery, and Philadelphia counties and is now required to attain the standards by August 3, 2024.