

Update on Rulemakings and State Implementation Plan (SIP) Revisions

AQTAC – August 17, 2023

Final Rulemakings

There are no final air quality rulemakings currently in process.

Proposed Rulemakings

There are no proposed air quality rulemakings currently in process.

Regulatory State Implementation Plan (SIP) Revisions

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

A SIP revision was submitted to the EPA on December 12, 2022. Next steps include the EPA's forthcoming evaluation of the approvability of this SIP submission in accordance with the applicable technical and RACT requirements under the CAA.

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

A SIP revision was submitted to the EPA on January 13, 2023. Next steps include the EPA's forthcoming evaluation of the approvability of this SIP submission in accordance with the applicable technical and RACT requirements under the CAA.

Large Petroleum Dry Cleaners, Shipbuilding and Repair Coatings Operations, and SO₂ Reactors, Distillation, and Air Oxidation Processes

A SIP revision was submitted to the EPA on May 12, 2023. Next steps include the EPA's forthcoming evaluation of the approvability of this SIP submission in accordance with the applicable technical and RACT requirements under the CAA.

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. 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 focused 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. DEP is preparing a SIP revision.

On February 22, 2023 the Department received a "120-Day Letter" from EPA proposing to reclassify several townships in Westmoreland and Cambria Counties from "attainment/unclassifiable" to "nonattainment" for the 2010 sulfur dioxide (SO₂) NAAQS. After reviewing the technical support document accompanying the 120-Day Letter, DEP responded with comments on June 22, 2023.

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 SCR controls to meet the RACT requirements for the 1997 and 2008 ozone NAAQS. The Department 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 submitted a 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 nitrogen oxides (NO_x) at Homer City, Keystone, Conemaugh and Montour EGUs. Conemaugh, Keystone and Homer City filed petitions to review in the 3rd Circuit Court. On March 13, 2023, the 3rd Circuit denied the facilities' motions to stay the March 29, 2023 FIP compliance date. The Department submitted its final briefs in this litigation on May 31, 2023. The parties are waiting for the Third Circuit to schedule oral argument.

On July 1, 2023 Homer City EGU ceased operations and on July 3, 2023, Homer City provided notice of its intent to voluntarily withdraw its petition for review.

On July 3, 2023 the Department issued its proposed Title V operating permit for the Montour EGU incorporating EPA's FIP limits.

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.