

**MEMO** 

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| **TO** Jessica Shirley  Acting Secretary    **FROM** Nick Lazor  Director  Bureau of Air Quality | |
| **THROUGH** | Ali Tarquino Morris  Deputy Secretary  Waste, Air, Radiation and Remediation  Ramez Ziadeh  Acting Executive Deputy Secretary for  Programs    Robert “Bo” Reiley  Director  Bureau of Regulatory Counsel  Michael Braymer  Chief Counsel  Office of Chief Counsel    High Garst  Director  Policy Office |
| **DATE** | June 6, 2024 |
| **RE** | DEP Comments on EPA’s Proposed Disapproval of DEP’s CTG RACT Rule Docket ID No. EPA-HQ-OAR-2019-0562 |

**MESSAGE:**

Attached for your concurrence are DEP’s comments to the United States

Environmental Protection Agency (EPA) to address the EPA’s proposed disapproval of two

Pennsylvania Reasonably Available Control Technology (RACT) State Implementation

Plan (SIP) revisions under the 2008 ozone National Ambient Air Quality Standards

(NAAQS). The EPA’s proposed partial disapproval pertains to Pennsylvania’s SIP

revisions certifying RACT for the control of volatile organic compounds (VOC) from sources

covered by the EPA’s control techniques guidelines (CTG) and regulation controlling VOC

emissions from industrial cleaning solvents. The EPA is proposing to disapprove Pennsylvania’s SIP revisions because it determined the analysis in the record is inadequate to support approval.

Comments are due to the EPA on or before June 17, 2024. DEP finds it essential to submit comments to the EPA as the EPA’s proposed disapproval of the RACT requirements for the 2008 NAAQS will start an 18-month sanction clock that can only be stopped by the EPA’s approval that Pennsylvania’s existing rules meet RACT for CTG source categories regulated by DEP’s rules. If any DEP rule is determined not to meet RACT it may require DEP to develop a new regulation, which is roughly a two-year or longer process and would carry DEP beyond the 18-month sanction clock deadline.

In order to robustly support that Pennsylvania’s existing rules meet RACT, DEP is also providing the EPA with an updated analysis based upon a review of the RACT/BACT/LAER Clearinghouse (RBLC) website and analysis that provides support that DEP’s current regulations are in fact RACT. DEP is also providing a state to state comparison for each of its CTG based regulations demonstrating that Pennsylvania’s regulations are consistent with, as stringent as, and in some cases more stringent than the respective EPA RACT approved regulations in the State of New Hampshire, New York, and additional states.

If the EPA accepts the analysis provided as support for the record it may change its position from a proposed disapproval to a conditional approval. This proposed rule is intended to meet the November 15, 2024 Consent Decree deadline for EPA’s reconsideration resulting from the U.S. Court of Appeals for the Third Circuit’s remand without vacatur of EPA’s prior approval of both rules in Ctr. for Biological Diversity v. EPA, 3d Cir. No. 21-1279.

Please contact me if you have questions or concerns.

Attachments