

## **INDUSTRIAL STAKEHOLDER GROUP OCTOBER 2, 2020 MEETING HIGHLIGHTS**

### Preliminary Matters

Due to the restrictions placed on indoor gatherings as a result of COVID-19, the Department determined that it would be appropriate to hold a virtual meeting.

### Agenda Items (in order of presentation)

**I. Meeting Protocol:** The Department provided a brief explanation for the change in meeting format. Instead of engaging in the traditional “roll call” allowing participants to introduce themselves, the Department provided instruction for participation by attendees via the Teams App as well as individuals calling into the meeting by telephone.

**II. Rule Update:** The Department provided updates on the four rulemaking efforts underway. First, the fumigation/air toxics rules proposal remains under review and the Department hopes the proposal will be published in the New Jersey Register soon. In response to inquiries, the Department acknowledged that two permits for fumigation operations had been issued. The Department further clarified that unit risk factors were not located in the rule text. Rather, reporting thresholds are. Second, the Department advised that the Consumer Products/ Architectural and Industrial Maintenance Coatings/Aftermarket Catalytic Converter Rules proposal is still a work in progress. Though these rules are not prioritized as highly as the NJPACT rules, the Department hopes to publish a proposal in 2021. Third, the Department advised that the regulatory reform effort known as New Jersey Protecting Against Climate Threat (NJPACT) has expanded in scope and that the Department held additional stakeholder meetings in September to address the potential expansion. The Department provided information concerning the deadline for written comments to be submitted in response to the stakeholder meetings. In response to an inquiry, the Department advised that a final decision on any additional stakeholder meetings/efforts had not been made. Fourth, the Department advised that pursuant to the recently passed Environmental Justice legislation, there would be a single rulemaking effort for the entire Department and Danny Wong would be the lead representative for the Division of Air Quality, Energy & Sustainability.

**III. Organization Chart Update:** The Department provided updated organization charts for the Bureaus of Stationary and Mobile Sources within the Division of Air Quality, Energy & Sustainability. The updated charts highlight supervisory changes and vacancies. Those charts will be posted on the ISG website.

**IV. Risk Screening Worksheet:** The Department provided information about the Risk Screening Worksheet that was posted on June 30, 2020. Specifically, the Department’s presentation identified all the relevant documentation and how to access those documents on the Department’s website. In addition, the presentation highlighted the changes that were made to the worksheet. There were a number of questions from stakeholders concerning the Department’s handling of permit applications when the hazard quotient is above one. The

Department advised that it has and will continue to handle these issues on a case-by-case basis. The Department has a risk management committee that evaluates potential issues and solutions. Applicants are encouraged to work with staff to come up with creative solutions when elevated risks have been identified. A stakeholder asked for the status of other specialized risk screening worksheets being developed. The Department advised that these are still in progress, but have been delayed by COVID and furloughs. The Department inquired about the status of the work of the stakeholder sub-group, which had been formed to make recommendations to the Department on the risk screening process. No progress was reported. A stakeholder inquired about the “grandfathering” of significant modification applications submitted prior to June 30, 2020. The Department confirmed that those applications that are administratively complete submitted prior to the publication of the new risk screening worksheet would be processed pursuant to the August 2018 risk screening worksheet.

**V. Signed EJ Law:** Danny Wong explained that the Environmental Justice legislation had only recently been signed into law, but the Department is already evaluating what needs to be addressed as a result of the legislation going forward. At this time, the only two items that can be reported with certainty are that the Department will need to publish the list of overburdened communities and begin a rulemaking process to implement the legislation. Currently, it is the Department’s position that there will be one rulemaking for the entire Department, so that the implementation requirements will be available in one place and not divided among the different divisions. In response to inquiries, the Department advised that as of this date no formal timetable has been set; there have been no discussions or decisions concerning exemptions for “beneficial use” facilities or any other type of facility; for applications that are already administratively complete, the existing environmental justice policies will be applicable; and requests for public hearings on permit applications will be handled pursuant to the existing rules. Stakeholders raised concerns about the adoption of a Department-wide rule given the unique permitting requirements associated with different divisions within the Department. A stakeholder suggested that the ISG subgroup looking into the risk screening worksheet could be adapted to assist the Department with its cumulative impact analysis under the legislation. Another stakeholder asked whether the list of municipalities in the Guidance document issued in response to Executive Order No. 23 was meant to fulfill the legislative mandate for the identification of overburdened communities. To these and other questions, staff advised that the Division of Air would not be leading these rulemaking efforts, but the Division would raise these issues at future Department meetings and report back if information could be made available at the next ISG meeting.

**VI. Open Discussion:**

(1) A stakeholder asked whether the Department could provide information on current review times for permit applications and modeling/risk assessments. The Department acknowledged that the remote work environment has caused some loss in efficiencies, but it does not have hard data on the identification of or extent of delays associated with particular programs. The Department will report back at the next ISG meeting.

(2) A stakeholder inquired about the Department's position on the EPA's recent repeal of the "once in, always in" policy. The Department indicated that it could not comment on implementation of any policy until it was final and that matter is the subject of ongoing litigation.

All written presentations were posted on the ISG Meeting webpage.  
<http://www.state.nj.us/dep/aqpp/isg.html>