

## **INDUSTRIAL STAKEHOLDER GROUP FEBRUARY 5, 2021 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 four rulemaking efforts. First, the Department advised that the Department is in discussions with the EPA to finalize a delegation agreement, which would allow the Department to implement and enforce the applicable air pollution control requirements on the Outer Continental Shelf. Second, the Department anticipates that the fumigation/air toxics rules proposal will be published in the New Jersey Register in the Spring. In response to an inquiry, the Department indicated that it could not release an official publication date yet. Third, the Department advised that the Consumer Products/ Architectural and Industrial Maintenance Coatings/Aftermarket Catalytic Converter Rules proposal is still a work in progress. The Department hopes to publish a proposal in 2021. Fourth, the Department reviewed the scope of the regulatory reform effort known as New Jersey Protecting Against Climate Threat (NJPACT) Climate Pollutant Rules (CPR). The update was a recap of the presentation provided to stakeholders in December 2020, which provided an update on the status of the greenhouse gas monitoring and reporting rules proposal as well as an overview of a second rule proposal that is intended to limit CO<sub>2</sub> from stationary sources. The CO<sub>2</sub> rule proposal is anticipated to have three components: (1) a proposed CO<sub>2</sub> emission limit for EGUs; (2) a proposed new permit requirement for small fossil-fuel burning boilers, including a phase-in schedule for replacement of small boilers within large fleets; and (3) a ban on the sale of heavy fuel oils (No. 4 and No. 6). The Department did not provide an overview of the mobile source rule proposals that are also anticipated to be published later this year as part of the NJPACT CPR effort. Stakeholders had numerous questions regarding the greenhouse gas monitoring and reporting rule proposal concerning the scope of “new” data reporting under the rule and the timing of that reporting. In response to these questions the Department indicated: (1) the timing of reporting is still being discussed, but the Department recognizes that entities subject to any “new” reporting will need time to put systems in place; (2) the proposal will include reporting for refrigerants, but the scope will be the same as the California rules with a 50 lbs. threshold; and (3) landfills and wastewater treatment may be covered by the rules, but it will depend on whether the emissions from these facilities meet or exceed the threshold that will be included in the rule. Additionally, stakeholders had numerous questions about the scope and timing of the CO<sub>2</sub> rule proposal. In response to these questions the Department indicated: (1) the size of EGUs subject to the CO<sub>2</sub> rule proposal will generally be consistent with

other Department rules (i.e. the CO<sub>2</sub> Budget Trading rules); (2) the Department does not anticipate the scope of the rule to cover space heaters; (3) the Department does not anticipate allowing alternative compliance methods (i.e. achieving emission reductions by means other than installing non-fossil-fuel boilers); (4) permit applications for fossil-fuel boilers are expected to be reviewed as part of an interactive process; (5) the timing and estimated CO<sub>2</sub> emission reductions will be included in the Department's rule proposal when published.

**III. Update on General Permits and General Operating Permits:** The Department provided an update on general permits and general operating permits. The status of specific GPs/GOPs can be found in the full presentation that will be posted on the ISG website.

- GOP-009 has been available for use since November 2, 2020. This permit for a boiler greater than 10 MMBTU/hr and less than 50 MMBTU/hr.
- The Department intends to propose the discontinuation of GP-020, which is intended for research and development facilities (R&D facility). One of the reasons the Department plans to discontinue this GP is that it fails to address risk. Once discontinued, Title V facilities may instead apply for a PCP for the research and development facility located within a Title V facility. In response to a stakeholder question, the Department advised that once discontinued, an R&D facility may either be separately permitted under a PCP or it may be incorporated into an existing Title V permit.
- Though not required to apply for and receive a permit, the Department advises that used oil heaters less than 500,000 BTU/hr are required to submit the appropriate registration form to the Department. To facilitate this process the Department has developed an online process, which it anticipates will be available next month.
- The Department noted that there have been numerous instances of facilities that have inappropriately obtained a GP, particularly for GP-016A. The Department cautioned stakeholders that obtaining a GP for which the facility does not qualify will not protect the facility from compliance and enforcement action. The Department urged stakeholders to read the applicability requirements, including the exclusions list, for GPs prior to submitting an application and contact the Department if there are questions about whether a facility qualifies for the general permit.
- In response to questions from stakeholders the Department advised that it acknowledged in a prior ISG meeting that the existing invoice billing system has resulted in some confusion. The Department has been working on a new process. The 2<sup>nd</sup> and 3<sup>rd</sup> invoices that were automatically sent previously, and which were the source of confusion since each invoice had a new number associated with it, have been eliminated. Under the new system, which the Department is in the process of implementing, late payment notices will be sent via email.

**IV. Gas Station (Stage II) updates:** The Department provided an overview of its efforts to assist businesses in New Jersey who are required to come into compliance with the Stage II (aka Phase II) rules for gas dispensing facilities (GDFs). As background, the Department advised that the Air Pollution Control rules at N.J.A.C. 7:27-16.3 were amended in 2018 to require noncompatible Phase II equipment at GDFs to be decommissioned by December 23, 2020. Specifically, existing facilities with vacuum assist Phase II vapor recovery systems that are incompatible with onboard refueling vapor recovery (ORVR) systems, which are installed directly on the motor vehicle, must decommission the systems by 12/23/2020. Existing facilities with ORVR-compatible Phase II vapor recovery systems (such as balance systems or vacuum assist systems with qualified equipment) may decommission the systems, but are

not required to do so; however, if the system is left in place, the facility must continue to maintain the system. The Department notes that there are more than 3,000 GDFs in New Jersey. The Department's outreach efforts prior to the compliance deadline have included: (1) a Compliance Advisory issued on June 25, 2020; (2) updated the Small Business Environmental Assistance Compliance calendar to include information on compliance with the amended rules; and (3) notifications were sent in September 2020 to all GDFs with a GP or PCP advising them to come into compliance. The Department notes that the compliance deadline of December 23, 2020 has passed. Accordingly, GDFs whose permits are inconsistent with the requirements of N.J.A.C. 7:27-16.3 will automatically terminate at the time of the permit expiration. These GDF's may be out of compliance because the GDF either: failed to decommission; or chose not to decommission according to the rule; or a facility that decommissioned its system or still has an old PCP permit failed to apply for an updated permit that includes all appropriate state and federal requirements.

**V. Confidentiality Claims:** The Department provided an overview of the process that must be followed when submitting information to the Department that is claimed to be confidential. The full presentation, which included references to N.J.A.C. 7:27-1, will be posted on the ISG website. In response to specific questions about the substance of confidential materials (i.e. what the Department deems confidential), the Department advised that stakeholders should request a meeting with the Department prior to making any submission they believe is confidential. A preliminary meeting can help to establish whether the information, which may be confidential, is required to be submitted or if different information/data may be used instead.

**VI. Permit Status** (last-minute agenda item): Shortly before the meeting, a stakeholder inquired about the processing of permits since COVID workplace measures were put in place. The Department had committed to sharing this information at the previous ISG meeting. The Department provided a short presentation on the status of the Department's processing of permit applications. For minor source permits, the Department was processing approximately 80% pre-COVID and has been processing at a rate of about 77% since COVID workplace measure went into effect. For major source permits, the Department was processing approximately 76% pre-COVID and has been processing at a rate of about 72% since COVID workplace measure went into effect. In response to a question about the completion timeframe for permit review, the Department referred the stakeholder to the dashboard reports on the Department's website, which are released monthly. In response to a question about the prioritization of permit completion, the Department indicated that it does prioritize completion of permits based on a number of factors, including whether the permit application provides an environmental or economic benefit. If an applicant feels there are compelling reasons for their permit to receive priority treatment, they are advised to highlight these factors during their pre-application meeting with the Department (which the Department encourages all permit applicants to schedule, though it is not a requirement). In response to a question, the Department advised that the 23% to 28% of permits that had not been fully processed remain in the queue and are being handled by staff. One stakeholder noted that there were approximately 25% fewer permit applications submitted since COVID workplace measures went into effect. The Department acknowledged that this decrease in applications helped to offset the delays caused by the COVID workplace measures.

**VII. Sixty-day Comment Period** (last-minute agenda item): Shortly before the meeting, a stakeholder inquired via email about whether the increased comment period (which went from 30 to 60-days) for permit applications as a result of the Governor's Executive Order, will remain in place. More than one commenter indicated that the 60-day comment period created an unnecessary delay in the process,

particularly in light of the ability to hold virtual hearings, which are arguably more accommodating to the public. Staff indicated that they would raise this issue at a higher level.

#### **VIII. Open Discussion:**

(1) A stakeholder asked whether there were any updates on the RACT rule for turbines, to which the Department indicated there were no updates (i.e. no pending rule proposals).

(2) A stakeholder inquired about updates to the SOTA manuals, which was an initiative discussed at prior ISG meetings. The Department advised that updating the SOTA manuals remained a goal. However, competing priorities have depleted the resources currently available. The Department anticipates this initiative will be pursued once staffing levels return to normal and the competing priorities are resolved.

(3) A stakeholder asked a logistical question about how to call to discuss the progress of a permit application if the Department staff are not using their office telephones due to COVID workplace measures. The Department responded that phone calls are possible, but the stakeholder should email the request for a telephone meeting so that the Department can set up a conference call line or a “teams” meeting (which is an online meeting conducted through the Department’s software package).

(4) A stakeholder asked a logistical question: Who is the best contact to discuss a risk screening on a Title V renewal application? The Department responded that the Permit evaluator is the best contact.

Participants were reminded that the next ISG meeting is scheduled for June 4, 2021. All written presentations were posted on the ISG Meeting webpage.

<http://www.state.nj.us/dep/aqpp/isg.html>