

INDUSTRIAL STAKEHOLDER GROUP FEBRUARY 3, 2023 MEETING HIGHLIGHTS

Preliminary Matters

This meeting is being held in a virtual format using the Department's video conferencing software, Microsoft Teams. All written presentations displayed during the meeting will be posted on the ISG website for reference. The meeting highlights are provided as a courtesy and are intended to reflect the discussion during the ISG meeting only. Should there be a perceived discrepancy between the discussion at the ISG meeting and the Department's official position as set forth in rules, guidance, or policy, the Department's written rules, guidance, or policy documents will govern.

Agenda Items (in order of presentation)

I. Stationary Sources & Planning Website Updates: The Department has completed updates to the Bureau of Stationary Sources website, which are now live. The newly improved website contains all of the information previously on these webpages. The changes were intended to improve navigation and access to some of the most frequently used items. The Department provided a demonstration of the new webpages during this discussion. Additionally, the Department noted that the URL (browser address) of the webpage had changed. And though there will be an automatic redirect from the old page temporarily, it is recommended that users update their bookmarks/favorites to reflect the new address: <https://dep.nj.gov/boss/>

II. Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards: There were no comments or questions following the presentation, which is available on the ISG website.

III. Control and Prohibition of Carbon Dioxide Emissions Rule Adoption: The discussion during and after the presentation included several comments/questions. A stakeholder asked whether the Department had any updates after the boiler provisions of the proposal were not included in the adoption. Similarly, a stakeholder asked whether the Department was contemplating any future rulemaking efforts at this time. The Department indicated that all options for future rulemaking were on the table, but that the Bureau of Stationary Sources had no information to share publicly at this time. Should there be a future rulemaking on boilers or otherwise, the Department would follow the usual public process, starting with stakeholder meetings.

IV. Risk Screening Worksheet Update: There were no comments or questions following the presentation, which is available on the ISG website.

V. GP Update: The Department provided updates on two GPs as part of its presentation: GP-020A Research and Development, and a new GP being developed for indoor operations using Sulfuryl Fluoride under a tarp enclosure. Additionally, the Department indicated that it planned to begin work on updating/revising: GP-17A Small Boilers, GP-7 Storage Tanks, and GP-8 Site Remediation. Following the presentation, a stakeholder asked if the Department could predict the time necessary to finalize GP-020A. The Department indicated that once the draft is

published for public comment, a best-case scenario would be to finalize it in a couple of months. However, the Department will be able to predict timing with more accuracy once the draft has been released and the comment period has ended. Another stakeholder asked “If an R&D operation can meet the requirements of GP-016A, can that be used in the interim?” The Department indicated that this may be possible, if the operation meets all of the applicability requirements of GP-016A. However, an operation should discuss this option with DEP in advance because there are other considerations that may make the GP-020A more attractive.

VI. Permit Applicability: The Department explained that it recently made a change in procedure requiring all air permit applicability determinations to go to the Bureau of Stationary Sources. To help make the process more efficient, an Air Permit Determination Form was developed and is available online. Instructions on the location and use of the new form were provided during the presentation, which is available on the ISG website. A stakeholder asked whether a form could be submitted anonymously (i.e. without identifying a facility) to which the Department responded that the form could be submitted anonymously. The Department cautioned, however, that when the information provided is imprecise, the response provided by the Department is likely to be equally vague. Another stakeholder asked if the database containing the applicability determination request forms and responses could be viewed by the public. The Department indicated that, generally speaking, the forms submitted and the responses provided would be considered public information. Nonetheless, the database was not set up in a manner conducive to public access.

VII. N.J.A.C. 7:27-8 Applicability to Major Facilities: Stakeholders were reminded that in 2017 the Department revised the rules to clarify that a permit issued pursuant to the Title V Operating rule (N.J.A.C. 7:27-22) incorporates all requirements that were included in any pre-construction permit issued to the facility pursuant to N.J.A.C. 7:27-8. The Department acknowledges that some reporting thresholds in N.J.A.C. 7:27-8 are more stringent than those in N.J.A.C. 7:27-22. A stakeholder asked if the Department planned to harmonize the different thresholds in a future rulemaking, and if so, would the N.J.A.C. 7:27-8 reporting thresholds become less stringent or the N.J.A.C. 7:27-22 thresholds become more stringent to match? The Department indicated that it was possible that the inconsistency could be corrected in a future rulemaking. But at this time, the Department has no plans to make a revision, nor has it discussed which method might be used for consistency in the reporting thresholds.

VIII. Air Quality Forecasting for Emergency Generators: In response to questions the Department received about the air quality forecasting tool and the inability to access the air quality forecast at the county or municipal level, the Department provided a demonstration. Specifically, the Department highlighted the instructions contained on the webpage (<https://dep.nj.gov/boss/air-quality-forecast-for-emergency-generators/>) indicating that facilities are prohibited from testing and maintenance of emergency generators when the forecast indicates that it is unhealthy for Sensitive Groups , Unhealthy, Very Unhealthy, or Hazardous **anywhere in the State of New Jersey**. For this reason, it is unnecessary to be able to access the specific County or municipality forecast. The Department also noted that the “AirNow” website (<https://www.airnow.gov/state/?name=new-jersey>), which provides the air

quality forecasts, is not managed by the Department but the EPA; thus, the Department is unable to make changes to accommodate different search parameters. A stakeholder asked whether the Department kept a list of the bad air quality days for each year. The Department responded that it was possible to search historical data on the website for bad air quality days (via <https://www.airnow.gov/state/?name=new-jersey> or the reports on exceedances at <https://dep.nj.gov/airplanning/aqi-today/>). Stakeholders asked if there was a simple list that did not require a search and indicated that this would be useful to facilities when conducting an audit. The Department indicated that it would take this suggestion under consideration. Another stakeholder asked for clarification on whether a violation was based on whether a test/maintenance was performed on a day when the forecast indicated it was unhealthy for Sensitive Groups, Unhealthy, Very Unhealthy, or Hazardous or if a violation was based on whether the air quality had in fact been actual unhealthy for Sensitive Groups, Unhealthy, Very Unhealthy, or Hazardous. The Department indicated that this would depend on the exact rule language, so the Department will check this language and respond. Another stakeholder asked if the Department would consider allowing testing/maintenance at higher loads. The Department responded that the lower load requirement was included in the rule to limit the emissions from testing/maintenance. After the meeting the Department confirmed that: (1) Violations are based on the forecast data; and (2) at the end of each calendar year, the Department generates a list of historical forecasts for bad air quality days. Should a member of the public need to access the list, they are encouraged to call the Department to request it.

IX. Replacement In Kind: The Department reminded stakeholders that the phrase “replacement in kind” does not appear at N.J.A.C. 7:27-8 and 22. For each Subchapter, there are different requirements when a facility intends to replace existing equipment. For N.J.A.C. 7:27-8, even if a facility is replacing a piece of equipment with the same exact piece of equipment, the facility will be required to submit either an amendment or modification request, depending on other factors. Similarly, any equipment replacement under N.J.A.C. 7:27-22 must also be done as a modification of the operating permit. A stakeholder asked the Department for clarification on the reporting of the three new HAPs. Specifically, the stakeholder indicated that there was no place to report the new HAPs in the database, but the Department’s earlier presentation suggested that reporting was required. The Department thanked the stakeholder for bringing this matter to its attention and indicated that it would look into the issue. The Department indicated that it may need to update one of the reference tables in RADIUS to allow for reporting. After the meeting, the Department sent a Notice to those on the Air Permit email notification list. The Notice clarifies that: The 3 new HAPs (N-propyl bromide, Sulfuryl Fluoride, and Hydrogen Sulfide) are reportable on air permits; However, these substances are not required to be reported on emission statements.

X. EJ/Air permitting overlap as it relates to the EJ AO process: A request was made to DAQ shortly before the meeting to discuss the AO process and its interactions with the air permitting process. Below is a summary of that discussion. The Bureau of Stationary Sources (Bureau) cannot speak on behalf of the Office of Permitting and Project Navigation (OPPN). Accordingly, the Bureau can only address the process the Division of Air Quality is following. When the

Department receives a permit application in an area and within the scope of operations that may trigger an Environmental Justice (EJ) review, the Bureau sends the information to OPPN. Notice is provided to the facility, once the application is in the system, advising them that they must go through the public participation process under AO 25. Once the OPPN indicates that the public participation process is complete, the permit can begin to be reviewed by the Bureau. The following specific EJ review issues were discussed:

- 1) A stakeholder asked whether the Department had any information about how EPA was planning to proceed with reviews of permits for EJ purposes (i.e. whether specific projects had been targeted by EPA). The Department responded that it was not privy to EPA's plans and had seen no pattern in its interest in particular permit activities.
- 2) A stakeholder asked whether permit writers were advised once the EJ process was complete. The Bureau indicated that it does receive notice, but often it is the facility that contacts the Bureau first. Owners/operators need to understand that OPPN makes the determination when the process is complete; thus, the Bureau will not begin review until OPPN indicates the public participation process has been completed.
- 3) Another stakeholder asked whether the Bureau is reviewing air permit applications at the same time that the OPPN office is guiding the application through the public participation process. The Bureau indicated that the technical review of air permit applications will not begin until after the permit goes through the public participation process (if EJ is triggered). As a follow-up, a stakeholder asked if this was true even in the case of a renewal application, which generally must proceed to approval, even if EJ is triggered. The Bureau indicated that review will not be done simultaneously, regardless of the type of application.
- 4) A stakeholder asked about the timeline for permit applications that are pending now but have not begun/completed the public participation process. Specifically, will those applications be subject to the AO 25 process or the process in the rules (which have not yet been adopted). The Bureau responded that they cannot speculate about the requirements of the final rule.
- 5) A stakeholder observed that, in their experience, the Bureau was still working on Title V permits that were received prior to AO 25 (different than a permit received after AO 25). The Bureau confirmed that permit applications received prior to AO 25 were treated differently as a technical review was already underway, but the AO process must still be followed. Additionally, the stakeholder observed that, based on their conversation with personnel at OPPN, the typical turnaround time for a public participation process (if all goes smoothly) is 60 to 70 days. Thus, facilities should factor that into their timeline.
- 6) Another stakeholder asked whether equipment that is being downsized in an EJ area would need to go through the public participation process. The Bureau responded that

this is a case-by-case inquiry that could turn on an examination of the “stressors.” And since there is not a final rule, the answer remains unclear.

- 7) A stakeholder suggested that the Bureau consider merging or coordinating its Air Permit Determination Form with the OPPN’s readiness checklist since they contain overlapping information. The Bureau indicated it would take the suggestion under advisement.
- 8) A stakeholder asked whether a public participation process could include all potential permit scenarios (i.e. hours of operation, equipment capacity, etc.) to avoid having to repeat the public hearing. The Bureau agreed that this is a possible method to avoid duplication and maximize efficiency.
- 9) A commenter observed “Proposed Rule 7:1C-2.1(c): An application for review prior to the effective date of the rules shall not be subject to the requirements set forth in the rule. Preamble still subject to AO-25. Assume completeness means complete application (administratively complete)?” The Bureau indicated that the rule has not been finalized, but anticipates that OPPN will address that issue on adoption.

XI. Next Meeting (In person v. Virtual): The Department asked stakeholders to indicate whether they would be interested in having in-person ISG meetings in the future, to continue having the meetings in a virtual format, or whether the format should alternate between in-person and virtual. Stakeholders were divided, but there was enough support for the in-person format for the Department to indicate that it would look into reserving the Public Hearing room for the next ISG meeting in June.

XII. Open Discussion: A stakeholder asked if outstanding bills for a facility that has an expired permit are still available online for payment. The Department indicated that these bills should be available online (that the expiration of the permit should not make them inaccessible). However, the Department indicated that on occasion there have been glitches in the system. If a stakeholder is unable to access a bill, they should scall the Department for assistance. Stakeholders were reminded that expired Preconstruction permits, particularly those that are expired for a year or longer, are subject to compliance and enforcement actions.