

INDUSTRIAL STAKEHOLDER GROUP FEBRUARY 7, 2025 MEETING HIGHLIGHTS

Preliminary Matters

This meeting was held in the Public Hearing room of the Department's offices in Trenton, New Jersey. 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. GP/GOP Update:

- The Bureau of Stationary Sources (BOSS) noted that there are four GPs pending revision after the implementation of GP-012B (Outdoor Fumigation Operations of Containerized Commodities). BOSS then advised that all GP/GOP revisions are on hold until further notice while the program focuses on other priorities.
- BOSS advised that there is a new fee for GP registrations effective January 1, 2025, which is \$1,090.00. Any GP registrations submitted on or after January 1 (including any registrations created before that date but not submitted on or after 1/1/25; and registrations received before that date, but fee was not submitted before January 1) will be subject to the new fee.
- On Dec. 18, 2024, EPA issued a regulatory action under the TSCA to phase out the use of PCE in dry cleaning. Affected facilities are required to comply with the TSCA no later than 180 days after the effective date of the final rule. For purposes of compliance, the Department will not accept new GP-012A registrations or PCP applications for new Perc machines **on and after June 16, 2025**; No PCP holders will be allowed to operate a 3rd Generation Perc machine **on and after December 20, 2027**; and absolutely no Perc machines will be allowed to operate **on and after December 19, 2034** (all permits will be auto-killed on this date). Also, by the same date, all persons are prohibited from manufacturing (including importing), processing, distribution in commerce, or industrial or commerce use of PCE for use in dry cleaning solvent.

II. 2024 PM2.5 Designation Recommendation

- The Bureau of Evaluation & Planning (BEP) advised that the Department submitted the 2024 annual PM2.5 designation recommendation to EPA on February 6, 2025. The Department is recommending a designation of attainment for the entire State. BEP noted that two monitors were measuring air quality above the revised standard, therefore a five factor analysis of these monitors was performed. Based on the five factor analysis, BEP is making the recommendation of attainment, in part, due to the influence of smoke from wildfires in Canada and the Western U.S. that elevated certain

air monitoring data, the decrease in PM_{2.5} in preliminary 2024 monitoring data and the closure of 2 coal power plants in Southern New Jersey in 2022.

- A commenter asked if the Department recommended attainment for both monitors. BEP affirmed it had and explained the analysis. A commenter asked if the Department had requested an exceptional event for the 2023 readings above the standard at the two monitors. BEP confirmed that an exceptional event request was made in December 2024 for the 2023 readings. However, EPA has not provided feedback on the request yet.

III. Federally Mandated Ozone Nonattainment Fees & Update on Alternative 185 Fee Program for Revoked 1-hour ozone NAAQS

BEP explained that pursuant to Clean Air Act Section 185, when an area is in Severe nonattainment, the State has a State Implementation Plan (SIP) obligation to impose a fee on major sources if the nonattainment area does not attain by the attainment deadline. The fee would apply in the year after the attainment year on those sources that emit greater than 80% of their emissions during the attainment year.

- New Jersey was designated severe for the 1979 1-hour ozone NAAQS, which triggered a 185 fee obligation in 2008 and 2009. However, the EPA revoked that standard, which gave the Department greater flexibility in its response to the fee obligation. Accordingly, the BEP proposed an alternative equivalent demonstration program based upon equivalent fees collected by the BPU. No comments were received on this proposed plan and BEP intends to submit it to EPA for final approval.
- As discussed at the October 2024 ISG Meeting, BEP reminded stakeholders that the northern nonattainment area (NAA) was reclassified to severe nonattainment for the 2008 75 ppb ozone standard with a July 20, 2027 attainment deadline. Because this standard has not been revoked, the Department is required to implement a Clean Air Act Section 185 fee program. This will be done through rulemaking. Therefore, BEP held a stakeholder meeting on February 6, 2025. The deadline for the SIP revision to include the 185 Fee program is November 2025.
- One commenter asked when the draft SIP revision (rule proposal) will be available for review and how long the comment period would be. BEP indicated that the timing of the proposal is not yet clear, but interested parties can subscribe to the Air Quality Evaluation and Planning mailing list to be notified of Rule/SIP revisions. To subscribe, stakeholders should go to: <https://dep.nj.gov/airplanning/air-rules-listserv/>. BEP also advised that the comment period for a proposed rule typically lasts 60 days.

IV. Monitoring/Recordkeeping Requirements for Permits

BOSS is recommending that permit applicants submit monitoring and recordkeeping requirements that correspond to their proposed permit limits at the time they submit the permit application. BOSS anticipates that this will save time during the permit reviews process since it should eliminate the current practice of engaging in a back-and-forth with the facility about which recordkeeping and monitoring requirements are appropriate. BOSS also reminds

permit applicants to ensure that their protocols submitted for monitoring match the permit application request.

V. Clarification of 5-year Testing Deadlines

The Office of Air Enforcement (OAE) explained the impetus for the Compliance Advisory issued January 23, 2025. Specifically, OAE explained that due to recent change in policy concerning the expiration dates of Operating Permit Renewals, the OAE issued its own advisory to clarify an “anchor point” for determining stack testing deadlines for tests that must be done every five years. As set forth in the Compliance Advisory, new language was added to the General Provisions of newly approved Operating Permits regarding testing every five years but it required clarification. The Compliance Advisory as well as the presentation by OAE included examples illustrative of the OAE’s policy on establishing an anchor date for determining stack test deadlines. One commenter asked when approval for an additional stack test conducted early was not necessary. OAE responded that a permit holder can petition for this test to also count as a five-year test if it satisfied all requirements of a five-year test and was conducted within the 18 months prior to the next five-year stack test deadline. A similar question was asked about whether a permit holder can schedule their test anytime within the immediately preceding 12 months and the OAE referred them to the language in their permit. Another commenter then asked if they could test at anytime once the protocol is approved. The OAE responded yes, with the caveat that the matter could be complicated in the event a facility was required to do a retest as a result of a violation. Another commenter asked if there would be flexibility in stack test timing if a permit holder needed to satisfy a federal and state testing requirement around the same time. The OAE indicated that a permit holder can propose a schedule that makes sense for their facility to BOSS and approval will be left up to the permit writer. Another commenter asked when the new anchor date policy would be effective. OAE indicated that this would depend on different scenarios explained in the Compliance Advisory. Another commenter asked if the “anchor date” could be included in letters sent approving stack testing reports. OAE indicated that it was already considering that possibility.

VI. Air Permit Fee Update

Facilities were advised that the public notice of the fee updates based upon the changes to the Consumer price Index (CPI) were published in the New Jersey Register and on the BOSS website in November 2024 and that the new fees were effective January 1, 2025. The current Minor Air Facilities Fee Schedule and Major Air Facilities Fee Schedule are posted in General Guidance under Air Permitting Guidance.

VII. Environmental Justice Implementation

- BOSS advised that the responsibility for the EJ rule implementation now rests with the individual programs reviewing the permits instead of OPPN. However, it was also noted

that of the 39 applications currently subject to the EJ rules, all 39 are Air permits (though some also include solid waste permits).

- BOSS advised that of the 39 permits, two are close to an EJ Decision, 5 or 6 have submitted their EJIS to the Air permitting program (and have been reviewed), and many others have yet to submit their EJIS.
- A stakeholder inquired whether OPPN was still involved with EJ applications. BOSS explained that for Air permits, Jillian Alexander is the point of contact moving forward. However, to the extent there are facilities that have multiple permit applications with more than one program, OPPN would still continue to serve a coordination role.
- As a result of the change in responsibilities, BOSS is working on guidance documents and checklists to help usher facilities through the EJ process more efficiently. BOSS also advised that it has sought review of early drafts from stakeholders and may be asking for further assistance from external stakeholders to review the guidance documents in the near future. A stakeholder asked whether minor facilities will be asked to review guidance and BOSS responded that is possible, but the requirements for those facilities are expected to be less onerous. In response to an inquiry about workgroups being formed, BOSS reiterated that while it is attempting to put together guidance documents and checklists that may be reviewed by stakeholders before they go live, BOSS does not anticipate putting together formal workgroups. Some guidance documents/checklists may be “living documents.” A stakeholder asked how applicants will be expected to submit information (in what order). BOSS reiterated that it hoped to explain these items in forthcoming guidance.
- One stakeholder indicated that he recently had a useful conversation with BOSS about the relevance of SOTA in the EJ analysis and asked BOSS to share this with the group. BOSS explained that for renewal applicants required to do a technical feasibility analysis, they should keep in mind that it is a top-down analysis, similar to SOTA. Thus, if a facility is meeting SOTA, it is useful to include that information in the EJIS and permit application.
- Another stakeholder asked if facilities with very old renewal applications would be required to update their modeling per the rules or per the AO. BOSS indicated that modeling always has to be updated, whether it comes in under the EJ rules or AO – a renewal cannot proceed unless the modeling is up to date.
- Another stakeholder asked if BOSS would be posting the final decisions for the two facilities who are close to final decision (and posting decisions moving forward). BOSS advised that EJ decisions would be posted when issued and that BOSS was also working on potentially posting reports on status to increase transparency in the process.
- A stakeholder asked for advice on improving efficiency on the facility’s response to comment documents. BOSS indicated that the response to comments are left to the facilities, but BOSS will be reviewing those response to comment documents for accuracy and to ensure all questions have been answered. BOSS will also be looking at whether your responses are backed up with authority that you have cited (data/research); In other words, BOSS is looking for accuracy in responses to comments.

- There were questions concerning the EPA's role in the NJ EJ program and BOSS reminded stakeholders that the EJ process was based on state legislation. However, stakeholders wondered what EPA might comment on when the draft permit (with EJ conditions) is sent for final review. BOSS indicated that EPA has 45 days to review the draft permit, but historically, EPA has flagged any concerns before the 45-day deadline.
- There were questions concerning the EJ Map and which program within the Department would be overseeing the EJ Map data/updates. BOSS advised that the same program that has been doing the EJ Map will continue that work – no changes.
- A stakeholder asked whether minor air permits would be covered by EJ and BOSS responded that if a permit for another program triggers EJ eligibility, but an air permit is necessary, for example the expansion or a new facility, then the EJ review will need to include the air permit.
- A stakeholder asked whether the EJIS should include positive and negative impacts. BOSS reminded stakeholders that all stressors must be addressed, not only those that are identified as adverse.
- A stakeholder asked whether other programs may be used to evaluate stressors that are not related to the Air permit, and BOSS responded that this is possible and the other programs being used will depend on the stressor category. BOSS indicated that if there are other permits associated with the facility (besides Air), it is to the benefit of the applicant to identify those permits at the beginning of the process or risk having to do more than one or repeat the EJIS process. BOSS also reminded stakeholders that the Air program is only in charge of Air permit applications going through the EJ process, not other programs, such as a land use permit application that may be subject to EJ.
- A stakeholder asked whether there is any appetite within the Department to minimize the number of stressors. BOSS indicated that would require a rule change and there has been no indication that will happen in the immediate future.
- A stakeholder expressed his hope that there will be greater scrutiny given to applicability determinations to which BOSS responded that applicability was an issue under review. BOSS encouraged applicants to include information in their "reason for application" section that would indicate whether the facility was eliminating equipment and not just additions.

VIII. Open Discussion/Housekeeping:

- The Air program reminded stakeholders that GPs are not effective until the permit fee has been paid; thus, if a facility chooses the "bill me later" option, they must remember to pay. Failure to pay means the equipment is operating without a valid permit. When the Air program identifies unpaid bills, those applicants are referred to Enforcement. One stakeholder indicated that she had run into this problem because one of her clients could not cut the check until they had an invoice, but the invoice can't be issued until the permit is submitted. The Air program responded that invoices can be printed the day after the permit is submitted; further, the Department has a website that allows facilities to view the status of all of their permit applications. Facilities are encouraged

to check this website regularly to ensure their permits are valid. If a facility runs into trouble with billing, they are directed to call Mayra Reyes, Danny Wong, Joel Leon, and/or Art Lehberger.

- The Air program advised that there are two upcoming trainings: A enforcement-related training on May 7. Talk to Dave Conroy if you want details, or go to <https://www.nj.gov/dep/enforcement/advisories/2024-04.pdf>. And a month later a permitting training held jointly by Rutgers and NJDEP on June 10 and 11 (2-day course). Information on the Rutgers course is available at <https://cpe.rutgers.edu/environmental/air-quality-permitting> . The programs will do their best to make sure the trainings are not duplicative and you learn something different at each training.