



Re: Regulation #7-544

Dear Commissioners,

On behalf of the Pennsylvania Environmental Council and Environmental Defense Fund, we are writing to request the Independent Regulatory Review Commission's approval of Regulation #7-544 (Control of VOC Emissions from Unconventional Oil and Natural Gas Sources), scheduled for consideration by the Commission on July 21, 2022.

While we disagree with the assertion that the rulemaking needed to be bifurcated to separately address unconventional and conventional sources – particularly since the measures required to address emissions are common across the industry, cost-effective, and equally required by Federal law – the fact remains that this is a necessary and overdue regulation.

Other than removing applicability to the conventional industry, there have been no substantive changes to this rule since it was initially approved by the Environmental Quality Board (EQB) in March 2022. The rule, as resubmitted, was reviewed and approved again by the EQB on June 14, 2022.

The need to act is clear. Oil and gas operations in Pennsylvania are a substantial source of emissions including 1.1 million tons of methane and 63,000 tons of volatile organic compounds. While we were disappointed that the final "Control of VOC Emissions from Oil and Natural Gas Sources" rule failed to address emissions from smaller, low-producing wells with leak-prone equipment, there are modest but important emissions reductions to be gained from this rule. According to the [Department of Environmental Protection](#), the final oil and gas air pollution rule will reduce 12,068 tons per year of VOCs and 221,066 tons per year of methane.

This rule has been long in the making and involved substantial input from stakeholders. The [Wolf administration](#) announced its intention to develop an existing source oil and gas air pollution rule in January 2016. This rulemaking was officially noticed in [Pennsylvania Bulletin](#) in May 2020. Subsequently, DEP held a robust public engagement effort where more than 38,000 Pennsylvanians provided public comment, including 69 local elected officials, scores of public health professionals, academics, and organizations representing agriculture, recreation, environmental, and community interests.

Recent claims that the DEP has overstepped its authority regarding the final rulemaking, and that these standards are more rigid than other states, are demonstrably false.

To begin, DEP can use its authority to enact regulations that go beyond the Control Technique Guidelines (CTGs) established by the U.S. Environmental Protection Agency (EPA). CTGs are designed to serve as the threshold standard for determining what control measures should be considered during the rulemaking process. As such, while states cannot create a rule that is less stringent than the EPA baseline, there is no prohibition on enacting rules that go beyond the federal requirements. The CTG-led process is purposefully framed to allow states to tailor their rules to address state-specific needs.

This has in fact happened in other oil and gas producing states. In 2017 Colorado adopted their covered source regulations, which included the control threshold for storage tanks, that went above and beyond the federal CTG baseline. California also enacted stronger regulations when adopting its 2018 rule that included a requirement for quarterly leak detection and repair (LDAR) inspections. New York enacted more stringent controls over the use of gas-powered pneumatic controllers and required an even more

comprehensive LDAR program. Wyoming and New Mexico are not required to meet CTG standards, even though they are major oil and gas producers, and their regulations still go beyond current CTG requirements.

Further, recent EPA action confirms the reasonableness of DEP's regulation. Since the CTGs were originally promulgated in 2016, EPA has proposed more robust rules to regulate emissions from covered sources. These new standards are required to sufficiently prove that cost and other factors are considered when implementing the "best system of emissions reduction".¹ EPA has further determined that, accounting for compliance costs, current work practices can produce even higher emissions reductions than the original CTG requirements. These EPA actions and those taken by other major oil and gas producing states disprove that the DEP rule will overburden small businesses.

These regulations, which are in the public interest and eminently achievable, are long past due and should be finalized. In fact, the Commonwealth faces considerable programmatic sanctions if it fails to complete this rulemaking (and one for the conventional industry) before the end of this calendar year.

The basis and need for this rulemaking are clear. We respectfully request your approval of Regulation #7-544. Thank you for your consideration.

Sincerely,

John Walliser
Pennsylvania Environmental Council

John Rutecki
Environmental Defense Fund

¹ 42 U.S.C. 7411(b)