



CD ENVIRONMENTAL ENGINEERING LLC

Regulatory focus

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ADDRESSING THE NEEDS OF THE REGULATED
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

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Helping you achieve
your environmental
compliance goals.

Note: Information in this newsletter has been collected from various federal, state, and local agencies' published documents and registers, in part or entirety. Additional information and complete works are available from those locations.



Keeping up with new regulations is the first step towards environmental compliance.

New Air Regulations

NSR Repeal of Obsolete Rules and Project Emissions Accounting

As required by Texas Government Code, §2001.039, the Texas Commission on Environmental Quality recently conducted a review of Chapter 116 to determine whether the reasons for initially adopting the rules continue to exist. The review concluded that certain sections relating to the permitting of grandfathered facilities are obsolete. The grandfathered facility rules in Subchapter H of Chapter 116 were initially adopted to facilitate the permitting of various types of facilities which, prior to those rules, did not have an air permit. The deadlines to obtain permits under the Subchapter H rules passed many years ago, and previously-grandfathered facilities have either obtained a permit authorization as required or have shut down. In addition, one section (§116.128) relating to the public notice and hearing process for certain permit changes at electric generating facilities (EGF) was found to be obsolete because the rule and underlying statute expired in 2018. The readability, organization, and overall effectiveness of Chapter 116 would be improved by eliminating these outdated and unnecessary rules. All sections under Chapter 116, Subchapter H, Permits for Grandfathered Facilities, are proposed to be repealed.

The proposed rulemaking would also revise parts of Chapter 116 to align rules relating to Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) applicability with recent guidance and rules issued by the EPA, comply with congressional intent for the

federal PSD and NNSR programs, and encourage emissions decreases that might not otherwise occur or would be delayed. The commission is proposing revisions to §§116.12, 116.150, 116.151, and 116.160 to implement the EPA's PEA guidance and rules. The proposed rule changes to these sections would revise rule text to allow emission decreases, as well as increases, to be considered when evaluating the project emission increase.

Texas RACT in the Houston-Galveston-Brazoria Ozone Nonattainment Area

Pursuant to the Federal CAA, the EPA is proposing to approve the May 13, 2020 revisions to the Texas State Implementation Plan (SIP) concerning Reasonably Available Control Technology (RACT) requirement for the Houston-Galveston-Brazoria (HGB), 2008 8-hour ozone National Air Quality Ambient Air Quality Standards (NAAQS) nonattainment area (NA). The HGB area, designated as serious for 2008 8-hour ozone NAAQS, consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. The RACT requirements apply to sources of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NOX) in this area. The EPA is also proposing to approve negative declarations for certain VOC source categories subject to RACT in the HGB area. Written comments must be received on or before April 9, 2021. For further information, please contact Robert M. Todd at 214-665-2156 or Todd.Robert@epa.gov.



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Revisions to the Texas Diesel Emissions Reduction Incentive Program

Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a revision to the Texas State Implementation Plan (SIP) that pertains to the Texas Diesel Emissions Reduction Incentive Program, submitted on August 13, 2020. The EPA approved DERIP regulations into the Texas SIP in 2005 (70 FR 48647, August 19, 2005). More recently, the EPA approved updates to DERIP regulations in 2018 (83 FR 50018, October 4, 2018). This SIP revision further updates DERIP regulations. The effect of this update is to: (1) Allow more diesel vehicles and equipment in nonattainment areas or Start Printed Page 14397affected counties to be eligible for grant funding (30 TAC 114.622) and (2) exclude Victoria County from eligibility for DERIP grants (30 TAC 114.629). The inclusion of DERIP in the SIP, therefore, is discretionary and as such, revisions can be made as long as they do not contribute to nonattainment or interfere with maintenance. The revisions to 30 TAC 114.622 changed the amount of time equipment needs to operate in the affected counties. This change will provide for an increase in the pool of vehicles and equipment eligible for this program and potentially generate more emission reductions through future state grants. Some of these reductions, however, will likely be outside of designated nonattainment areas. As Texas is not relying on emission reductions from future DERIP grants, it is not necessary for the reductions to occur exactly in an affected nonattainment area. For further information, please contact Carl at 214-665-6645 or young.carl@epa.gov.

Texas Nonattainment New Source Review and Emission Statements

On June 24, 2020, Texas submitted a SIP revision for the DFW, HGB and Bexar County areas. The SIP revision included a description of how provisions previously approved by EPA meet the 2015 ozone NAAQS Marginal area CAA requirements for (1) NNSR and (2) Emission Statements from stationary point sources. A copy of the SIP revision is available online at www.regulations.gov, Docket number EPA-R06-OAR-2020-0166. In the SIP revision submittal, Texas determined that the NNSR SIP requirements of CAA section 182(a)(2)(C) are met for the 2015 NAAQS as the Texas SIP already includes 30 TAC Section 116.12

Pursuant to the CAA, the EPA is proposing to approve the portions of a State Implementation Plan (SIP) revision submitted by the State of Texas that describes how CAA requirements for Nonattainment New Source Review (NNSR) and emission statements are met in the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 ozone NAAQS. For further information, please contact Carl Young at 214-665-6645 or young.carl@epa.gov.



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NESHAP: Refractory Products Manufacturing Review

The EPA is proposing amendments to address the results of the residual risk and technology review (RTR) that the EPA is required to conduct in accordance with the Clean Air Act (CAA) with regard to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Refractory Products Manufacturing. The EPA is proposing to find the risks due to emissions of air toxics from this source category under the current standards to be acceptable and that the standards provide an ample margin of safety to protect public health. The EPA is proposing no revisions to the existing numerical emission limits based on these analyses; however, the EPA is proposing new provisions for certain hazardous air pollutants (HAP). The EPA is also proposing to amend provisions addressing emissions during periods of startup, shutdown, and malfunction (SSM) and provisions addressing emissions during periods of scheduled maintenance; to amend provisions regarding electronic reporting of performance test results; and to make miscellaneous clarifying and technical corrections. For further information, please contact Ms. Paula Hirtz, at 919 541-2618 or hirtz.paula@epa.gov.

NESHAP: Mercury Cell Chlor-Alkali Plants Review

The EPA is proposing the results of the residual risk and technology review (RTR) of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for

mercury emissions from Mercury Cell Chlor-Alkali Plants, as required by the Clean Air Act (CAA). The EPA is proposing to find risks due to emissions of hazardous air pollutants (HAP) to be acceptable from the Mercury Cell Chlor-Alkali Plants source category, and to determine that the current NESHAP provides an ample margin of safety to protect public health and that no more stringent standards are necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The EPA is proposing to amend the requirements for cell room fugitive mercury emissions to require work practice standards for the cell rooms and to require instrumental monitoring of cell room fugitive mercury emissions under the technology review. Furthermore, under our technology review and maximum achievable control technology (MACT) analysis, the EPA is proposing to not require conversion to non-mercury production technology and invite comments and data and information regarding this proposed determination. In addition, the EPA is proposing standards for fugitive chlorine emissions from mercury cell chlor-alkali plants, which are not currently regulated under the NESHAP. The EPA is proposing to address applicability for thermal mercury recovery units when chlorine and caustic are no longer produced in mercury cells. The EPA is also proposing revisions related to emissions during periods of startup, shutdown, and malfunction (SSM); provisions for electronic submission of performance test results, performance evaluation reports, and Notification of Compliance Status (NOCS) reports; and correction of various compliance errors in the current rule. For further information, please contact Phil Mulrine, at 919 541-5289 or mulrine.phil@epa.gov.



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Waiver of Renewable Fuel Standards

The Renewable Fuel Standard (RFS) program began in 2006 pursuant to the requirements in CAA section 211(o) that were added through the Energy Policy Act of 2005 (EPAAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007. The statute includes annual volume targets and requires EPA to translate those volume targets (or alternative volume requirements established by EPA in accordance with statutory waiver authorities) into compliance obligations that obligated parties must meet every year.

The EPA has received a number of petitions last year for a waiver of the RFS obligations that apply in 2019 and 2020. These petitions argue that recent events warrant EPA exercising its general waiver authority on the basis of severe economic harm. In late March, a group of small refineries requested a waiver of the 2019 and 2020 obligations of their individual small refineries. In April and May, the Governors of several states submitted three separate petitions for waivers of the nationwide volumes. The Clean Air Act grants EPA the discretion to waive the requirements of the RFS program in whole or in part if the Administrator determines, after notice and comment, that implementation of the applicable annual volume requirements would severely harm the economy or environment of a State, region, or the United States. EPA is inviting comment on the petitions that have been received. For further information, please contact Lauren Michaels at 734 214-4640 or: michaels.lauren@epa.gov.

Texas Emissions Inventories for Nonattainment Areas for O₃ NAAQS

The EPA is proposing to approve the portions of the State Implementation Plan (SIP) submitted by the State of Texas to meet the Emissions Inventory (EI) requirements of the Federal Clean Air Act (CAA or the Act), for the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 8-hour ozone national ambient air quality standards (NAAQS). EPA is proposing to approve this action pursuant to section 110 and part D of the CAA and EPA's regulations. Written comments must be received on or before April 26, 2021. For further information, please contact Ms. Nevine Salem at 214-665-7222 orsalem.nevine@epa.gov.



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New Environmental Compliance/ Waste/Wastewater Regulations

CWA Guidelines: Plastics and Synthetic Fibers Point Source Category

The EPA is initiating further data collection and analysis to support potential future rulemaking, under the Clean Water Act (CWA), relating to the effluent limitations guidelines, pretreatment standards and new source performance standards applicable to the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) point source category to address discharges from manufacturers of per- and polyfluoroalkyl substances (PFAS) and is considering revising the same for formulators of PFAS. PFAS are a group of man-made organic chemicals. Some PFAS compounds are persistent in the environment and in the human body. Analysis of animal studies and human epidemiological research suggest that exposure above certain levels to some PFAS may be associated with adverse human health effects. The Agency has identified several industries with facilities that are likely to be discharging PFAS in their wastewater, including OCPSF manufacturers and formulators. This advance notice of proposed rulemaking (ANPRM) provides for public review and comment on the information and data regarding PFAS manufacturers and formulators that EPA has collected to date. EPA is requesting public comment on the information and data presented in this ANPRM. EPA is also soliciting additional information and data regarding discharges of PFAS from these facilities to inform future revisions to the wastewater discharge requirements that apply to the OCPSF point source category. Comments must be received on or before May 17, 2021. For further

information, please contact Ms. Samantha Lewis at 202-566-1058 or lewis.samantha@epa.gov.

Texas Partial NPDES Program Authorization for Oil and Gas Discharges

On January 15, 2021, the Regional Administrator for EPA, Region 6 approved the request of the State of Texas' for Partial National Pollutant Discharge Elimination System (NPDES) program authorization for discharges from produced water, hydrostatic test water and gas plant effluent, hereafter referred to as oil and gas discharges, within the State of Texas. On October 12, 2020, the Governor of Texas submitted the application for NPDES oil and gas authorization, seeking approval for the Texas Commission on Environmental Quality (TCEQ) to implement a Major Category Partial NPDES Program as provided for under the Clean Water Act (CWA or “the Act”). Today, the EPA is providing public notice of the approval of the State's submittal of the application for NPDES oil and gas authorization. Pursuant to 40 CFR part 123.61(c), the Partial NPDES Program of the State of Texas was approved and became effective January 15, 2021. For further information, please contact Ms. Kilty Baskinat 214-665-7500 or baskin.kilty@epa.gov.



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Standards of Performance for Volatile Organic Liquid Storage Vessels

The EPA is finalizing amendments to the Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. The EPA is finalizing specific amendments that would allow owners or operators of storage vessels subject to the Standards of Performance for Volatile Organic Liquid Storage Vessels and equipped with either an external floating roof (EFR) or internal floating roof (IFR) to voluntarily elect to comply with the requirements specified in the National Emission Standards for Storage Vessels (Tanks)—Control Level 2, as an alternative standard, in lieu of the requirements specified in the Standards of Performance for Volatile Organic Liquid Storage Vessels, subject to certain caveats and exceptions for monitoring, recordkeeping, and reporting. The final rule is effective on January 19, 2021. For further information, please contact Mr. Neil Feinberg at 919 541-2214 or feinberg.stephen@epa.gov.

NPDES Issuance of the Multi-Sector General Permit for Stormwater Discharges

All 10 of the EPA's Regions are finalizing the 2021 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges associated with industrial activity, also referred to as the "2021 Multi-Sector General Permit (MSGP)" or the "final permit." This final permit replaces EPA's administratively continued 2015 MSGP that expired on June 3, 2020. EPA is issuing this permit for five (5) years to provide permit coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority, including Idaho (until July 1, 2021), Massachusetts, New Hampshire, New Mexico, Indian country lands, Puerto Rico, the District of Columbia, and most U.S. territories and protectorates. This Federal Register document summarizes the final permit. EPA encourages the public to read the final permit and accompanying fact sheet to better understand the final permit. The final permit and fact sheet can be found at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>. For further information, please contact the appropriate EPA Regional office.



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TSCA Section 6(h) Regulation: Pentachlorothiophenol (PCTP)

The EPA is finalizing a rule under the Toxic Substances Control Act (TSCA) to address its obligations under TSCA for pentachlorothiophenol (PCTP) (CASRN 133-49-3), which EPA has determined meets the requirements for expedited action under TSCA. This final rule prohibits all manufacturing (including import), processing, and distribution in commerce of PCTP and PCTP-containing products or articles for any use, unless PCTP concentrations are at or below 1% by weight. This rule will result in lower amounts of PCTP being manufactured, processed, and distributed, which will impact the amount that will be available for use or disposal, thus reducing the exposures to humans and the environment. This final rule is effective February 5, 2021. For further information, please contact Brooke Porter at 202 564-6388 or porter.brooke@epa.gov.

TSCA Section 6(h) Regulation: Hexachlorobutadiene (HCBBD)

The EPA is finalizing a rule under the Toxic Substances Control Act (TSCA) to address its obligations under TSCA for hexachlorobutadiene (HCBBD) (CASRN 87-68-3), which EPA has determined meets the requirements for expedited action under TSCA. This final rule prohibits all manufacturing (including import), processing, and distribution in commerce of HCBBD and HCBBD-containing products or articles, recognizing that there is unintentional production of HCBBD as a byproduct during the production of chlorinated solvents, and that results in distribution in commerce of a very limited subset of that byproduct for burning as a waste fuel. These requirements will impact the amount of HCBBD that will be manufactured, processed, distributed in commerce, used or disposed, thus reducing the exposures to humans and the environment from those activities prohibited under this final rule. This final rule is effective February 5, 2021. For further information, please contact Victoria Ellenbogen at 202 564-2053 or ellenbogen.victoria@epa.gov.



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Final Authorization of Texas Hazardous Waste Management Program Revision

On November 5, 2020, the Environmental Protection Agency (EPA) published a Proposed Rule to approve a revision to the State of Texas hazardous waste program under the Resource Conservation and Recovery Act (RCRA) and provided for a thirty-day public comment period. The public comment period closed on December 7, 2020, and EPA did not receive adverse comments. EPA confirms that the program revisions to the State of Texas hazardous waste program satisfy all requirements needed to qualify for final authorization. No further opportunity for comment will be provided. This final authorization is effective March 5, 2021. For further information, please contact Alima Patterson at (214) 665-8533 or patterson.alima@epa.gov.

Upcoming Compliance Reminders

April

1	❖ Public drinking water systems that provide water to community water system(s) deliver the applicable Consumer Confidence Report (CCR) information to their receiving systems.
10	❖ Groundwater or Purchased Water Systems: Disinfectant Level Quarterly Operating Report (DLQOR)

May

14-15	❖ 2021 Environmental Trade Fair and Conference Cancelled due to COVID-19.
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June

1	❖ Dam Safety Workshop for Owners and Operators Cancelled due to COVID-19.
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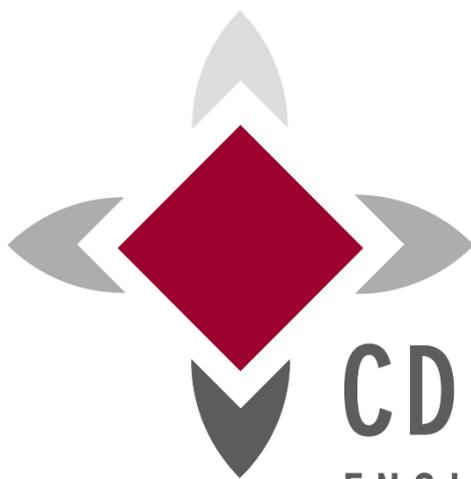
Plan Ahead!

Review any upcoming changes to you facility
for environmental compliance to prevent any
last minute issues from slowing down your
progress.

CD Environmental appreciates the opportunity to provide this regulatory update to our customers and friends. CD is committed to helping you achieve your environmental compliance goals. Please let us know if there is anything we can assist with to meet your compliance needs.

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