



CD ENVIRONMENTAL ENGINEERING LLC

Regulatory focus

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ADDRESSING THE NEEDS OF THE REGULATED
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

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Table of Contents

	Page
Chemical Manufacturing Industry Under CERCLA.....	2
NESHAPS: Petroleum Refinery Sector.....	2
Oklahoma; Infrastructure for the 2015 O3 NAAQS.....	3
TCEQ NSR: Update to Short-Term Emissions from Storage Tanks.....	3
Construction While Permit Amendment Application Pending.....	3
DFW and HGB Serious Classification SIP Revisions for the 2008 8-hr O3 NAAQS...	4
Adjustments to the Allowance System for Controlling HCFC Production and Import .	4
Texas Failed to Submit SIPs to Satisfy Certain Planning Requirements.....	5
Review of the Ozone National Ambient Air Quality Standards.....	5
Approval of New Mexico UST Program Revisions.....	6
NESHAP - Organic Liquids Distribution Residual Risk and Technology Review.....	6
Emission Standards for Oil and Natural Gas Sector.....	7
TCEQ's New PST rules go into effect January 1, 2021.....	8
EPA Clarifies New Testing Requirements for Certain PST Facilities.....	9
Authorization of Texas CROMERR Program Revision s.....	9
Rule Revisions for the Tier II Chemical Reporting Program.....	10
Drinking Water: Final Action on Perchlorate.....	10
Upcoming Compliance Reminders.....	11



Helping you achieve
your environmental
compliance goals.



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

New Air Regulations

Chemical Manufacturing Industry Under CERCLA

The Environmental Protection Agency (EPA) is proposing to not impose financial responsibility requirements for facilities in the Chemical Manufacturing industry under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 108(b) addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. For additional information, please contact Charlotte Mooney at (703) 308-7025 or mooney.charlotte@epa.gov.

NESHAPS: Petroleum Refinery Sector

The EPA has made a decision on aspects of the EPA's proposed reconsideration of the December 1, 2015, final rule: Petroleum Refinery Sector Residual Risk and Technology Review (RTR) and New Source Performance Standards (NSPS). This action finalizes proposed amendments to clarify a compliance issue raised by stakeholders subject to the rule, to correct referencing errors, and to correct publication errors associated with amendments to the final rule which were published on November 26, 2018.

The EPA conducted a residual risk and technology review (RTR) of Refinery MACT 1 and 2, publishing proposed amendments on June 30, 2014 (June 2014 proposal). These proposed amendments included technical corrections and clarifications raised in a 2008 industry petition for reconsideration of NSPS for Petroleum Refineries (40 CFR part 60, subpart Ja). After soliciting, receiving, and addressing public comments, the EPA published final amendments on December 1, 2015. The December 2015 final rule (December 2015 rule) included a determination pursuant to CAA section 112(f) that the remaining risk after promulgation of the revised NESHAP is acceptable and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. The December 2015 rule also finalized changes to Refinery MACT 1 and 2 pursuant to CAA section 112(d)(2) and (3), notably revising the requirements for flares and pressure relief devices (PRDs), removing startup, shutdown, and malfunction exemptions, and adding requirements for delayed cokers. Additional amendments were also promulgated pursuant to CAA section 112(d)(6) to require a fence line monitoring work practice standard as an advancement in the way fugitive emissions are managed and mitigated. The December 2015 rule also finalized technical corrections and clarifications to Refinery NSPS subparts J and Ja to address issues raised by the American Petroleum Institute (API) in their 2008 petition for reconsideration of the final NSPS Ja rule that had not been previously addressed. These included corrections and clarifications to provisions for sulfur recovery plants, performance testing, and control device operating parameters. For additional information, please contact Ms. Brenda Shine at (919) 541-3608 or shine.brenda@epa.gov.



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Oklahoma; Infrastructure for the 2015 O₃ NAAQS

EPA is approving elements of a State Implementation Plan (SIP) submission from the State of Oklahoma for the 2015 Ozone (O₃) National Ambient Air Quality Standard (NAAQS). Oklahoma's October 25, 2018, submittal addressed how the existing SIP provides for implementation, maintenance, and enforcement of the 2015 O₃ NAAQS (infrastructure SIP or i-SIP). The i-SIP ensures that the Oklahoma SIP is adequate to meet the state's responsibilities under the CAA for this NAAQS. This rule is effective on April 29, 2020. For additional information, contact Robert M. Todd at 214-665-2156 or todd.robert@epa.gov.

TCEQ NSR: Update to Short-Term Emissions from Storage Tanks

The TCEQ Air Permits Division has developed updated versions of [APDG 6419: Short-Term Emissions from Floating Roof Storage Tanks](#) and [APDG 6250: Estimating Short Term Emissions from Fixed Roof Tanks](#). The updated versions of these guidance documents incorporate the November 2019 updates to Environmental Protection Agency's AP-42 Chapter 7 – Liquid Storage Tanks. The updates were required to be utilized in permit applications submitted to the agency on or after December 16, 2019. These updates incorporate those changes into TCEQ's guidance and should be used for all permit applications submitted to the Agency

Construction While Permit Amendment Application Pending

Texas House Bill (HB) 2726 revised Texas Health and Safety Code (THSC), §382.004, Construction While Permit Amendment Application Pending. The revised statute allows an applicant for a permit amendment to begin construction on the project after the executive director has issued a draft permit including the permit amendment. The statute does not authorize any construction but is intended to make commission air permitting rules consistent with the provisions which is prohibited by federal law, and the construction is done at the applicant's own risk.

The rulemaking amends Chapter 116 to provide the framework and associated conditions to support the pre-permit construction. New §116.118 contains the provisions establishing the applicability and scope of the rules, and various restrictions and limitations. Sections 116.110, 116.116, 116.710, and 116.721, which address construction or modifications, are revised to add cross references to new §116.118.

Applicants for an air permit amendment will have more flexibility when modifying an existing facility. The option to begin construction before the final permit amendment is issued will tend to allow projects to be completed and begin operation sooner. However, if an applicant elects to begin construction early and the final permit contains changes, the applicant may incur additional costs to retrofit or modify the facilities consistent with the conditions of the final permit.



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DFW and HGB Serious Classification SIP Revisions for the 2008 8-hr O₃ NAAQS

On March 4, 2020, the TCEQ adopted three revisions to the Texas SIP for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS): the Dallas-Fort Worth (DFW) Serious Classification Attainment Demonstration (AD) SIP Revision (Non-Rule Project No. 2019-078-SIP-NR), the Houston-Galveston-Brazoria (HGB) Serious Classification AD SIP Revision (Non-Rule Project No. 2019-077-SIP-NR), and the DFW and HGB Serious Classification Reasonable Further Progress SIP Revision (Non-Rule Project No. 2019-079-SIP-NR). The DFW AD SIP revision also incorporates [revisions to the 30 Texas Administrative Code Chapters 115 and 117 rules](#) (Rule Project Nos. 2019-075-115-AI and 2019-074-117-AI).

For additional information, please visit the [DFW: Latest Ozone Planning Activities](#) and [HGB: Latest Ozone Planning Activities](#) webpages.

Adjustments to the Allowance System for Controlling HCFC Production and Import

The EPA is allocating production and consumption allowances for specific hydrochlorofluorocarbons, a type of ozone-depleting substance, for the years 2020 through 2029. These hydrochlorofluorocarbons may be used to

service certain equipment manufactured before 2020. The EPA is also updating other requirements under the program for controlling production and consumption of ozone-depleting substances, as well as making edits to the regulatory text for improved readability and clarity. These updates include revising the labeling requirements for containers of specific hydrochlorofluorocarbons; prohibiting the transfer of hydrochlorofluorocarbon allowances allocated through this rulemaking into allowances for hydrochlorofluorocarbons that have already been phased out; requiring the use of an electronic reporting system for producers, importers, exporters, transformers, and destroyers of controlled ozone-depleting substances; revising and removing recordkeeping and reporting requirements; improving the process for petitioning to import used ozone-depleting substances for reuse, including by creating more flexibility for imports of used halon from certain halon banks and exempting imports of aircraft bottles containing halon 1211 for hydrostatic testing from the petition process; creating a certification process for importing both used and virgin ozone-depleting substances for destruction; and restricting the sale of known illegally imported substances. This rule includes clarifications to the certification requirements for methyl bromide quarantine and pre-shipment uses. The EPA is also adding polyurethane foam systems containing ozone-depleting chlorofluorocarbons to the list of nonessential products. Lastly, the Agency is updating the definition of “destruction” as used in the context of the production and consumption phaseout and removing obsolete provisions.



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Texas Failed to Submit SIPs to Satisfy Certain Planning Requirements

The EPA is taking final action to find that Texas has failed to submit State Implementation Plans (SIPs) to satisfy certain nonattainment area planning requirements of the Clean Air Act (CAA) for the 2010 1-hour primary Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The purpose for the development and implementation of a nonattainment area SIP is to provide for attainment of the NAAQS as expeditiously as practicable following the designation of an area as nonattainment. This action establishes certain CAA deadlines for the EPA to impose sanctions if Texas does not submit a complete SIP for each nonattainment area addressing the outstanding requirements and for the EPA to promulgate a Federal Implementation Plan (FIP) to address any outstanding SIP requirements. The three nonattainment areas addressed in this action include Anderson-Freestone Counties, Rusk-Panola Counties, and Titus County.

In June 2010, the EPA promulgated a new 1-hour primary SO₂ NAAQS of 75 parts per billion (ppb), which is met when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with Appendix T of Title 40 Code of Federal Regulations (40 CFR) part 50. See 40 CFR 50.17(a)-(b). On June 30, 2016, the EPA signed the final action designating 61 areas as part of the second round of area designations for the 2010 SO₂ NAAQS. Areas designated as nonattainment for the SO₂ NAAQS are subject to the general nonattainment area

planning requirements of CAA section 172 and to the SO₂-specific planning requirements of subpart 5 of part D of Title I of the CAA (sections 191 and 192). All components of the SO₂ part D nonattainment area SIP, including the emissions inventory, attainment demonstration, reasonably available control measures (RACT) including reasonably available control technology (RACT), enforceable emission limitations and control measures, reasonable further progress (RFP) plan, nonattainment new source review (NNSR), and contingency measures, are Start Printed Page 48112 due to the EPA within 18 months of the effective date of designation of an area under CAA section 191. Thus, the nonattainment area SIPs for the Texas areas designated effective January 12, 2017, were due on July 13, 2018. These SIPs were required to demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, or by January 12, 2022. For additional information, contact Robert Imhoff at (214) 665-7262 or by email at Imhoff.Robert@epa.gov.

Review of the Ozone National Ambient Air Quality Standards

Based on the EPA's review of the air quality criteria and the national ambient air quality standards (NAAQS) for photochemical oxidants including ozone (O₃), the EPA is proposing to retain the current standards, without revision. For information or questions regarding the review of the O₃ NAAQS, please contact Dr. Deirdre Murphy at (919) 541-0729 or murphy.deirdre@epa.gov.



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Approval of New Mexico UST Program Revisions

Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of New Mexico's Underground Storage Tank (UST) program submitted by the State. This proposed action is based on EPA's determination that these revisions satisfy all requirements needed for program approval. This proposal action also proposes to codify EPA's approval of New Mexico's state program and to incorporate by reference those provisions of the State regulations that the EPA has determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. For additional information, contact Ms. Audray Lincoln at (214) 665-2239 or lincoln.audray@epa.gov.

NESHAP - Organic Liquids Distribution Residual Risk and Technology Review

The EPA finalizes the residual risk and technology review (RTR) conducted for the Organic Liquids Distribution (Non-Gasoline) (OLD) source category regulated under National Emission Standards for Hazardous Air Pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing amendments to the storage tank

requirements as a result of the RTR. In addition, the EPA is taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); add requirements for electronic reporting of performance test results and reports, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; add operational requirements for flares; and make other minor technical improvements. EPA estimates that these amendments will reduce emissions of hazardous air pollutants (HAP) from this source category by 186 tons per year (tpy), which represents an approximate 8 percent reduction of HAP emissions from the source category. This final rule is effective on July 7, 2020. and Industrial Source Categories Affected by This Final Action include:

NAICS code(s): 3222, 3241,
 3251, 3252,
 3259, 3261,
 3361, 3362,
 3399, 4247,
 4861, 4869,
 4931, 5622.

For additional information, contact Mr. Neil Feinberg, at (919) 541-2214; fax number: (919) 541-0516 or feinberg.stephen@epa.gov.



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Emission Standards for Oil and Natural Gas Sector

EPA finalizes amendments to the new source performance standards (NSPS) for the oil and natural gas sector. The EPA granted reconsideration on the fugitive emissions requirements, well site pneumatic pump standards, requirements for certification of closed vent systems (CVS) by a professional engineer (PE), and the provisions to apply for the use of an alternative means of emission limitation (AMEL). This final action includes amendments as a result of the EPA's reconsideration of the issues associated with the above mentioned four subject areas and other issues raised in the reconsideration petitions for the NSPS, as well as amendments to streamline the implementation of the rule. This action also includes technical corrections and additional clarifying language in the regulatory text and/or preamble where the EPA concludes further clarification is warranted. This final rule is effective on November 16, 2020. For additional information, contact Ms. Karen Marsh, at (919) 541-1065 or marsh.karen@epa.gov.



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New Environmental Compliance/ Waste/Wastewater Regulations

TCEQ's New PST rules go into effect January 1, 2021

The Texas Commission on Environmental Quality's Petroleum Storage Tank rules that became effective in May 2018 have different timelines for compliance. Some of these rules become enforceable after January 1, 2021, so facilities should review these rules and verify compliance before this deadline.

TCEQ adopted rules incorporating changes from EPA's 2015 revisions to the federal underground storage tank (UST) regulations in Title 40 Code of Federal Regulations (CFR) part 280. The rules were published in the Texas Register on May 25, 2018 and became effective on May 31, 2018. To view these rules, please visit 30 Texas Administrative Code (TAC) Chapter 334.

These rules include the following requirements that will go into effect on January 1, 2021:

- Annually test release detection equipment, including, but not limited to: automatic tank gauges; probes and sensors; automatic line leak detectors; vacuum pumps and pressure gauges; and groundwater and vapor monitoring equipment.
- Perform walkthrough inspections of spill prevention equipment (spill buckets) and release detection equipment every 30 days. If your UST system receives deliveries at intervals greater than 30 days, you may check spill prevention equipment prior to each delivery.

- Perform periodic testing and inspection of spill prevention equipment and containment sumps used for interstitial monitoring. The frequency depends on the equipment type.
 - Either test the spill prevention equipment and containment sump integrity once every three years; OR
 - Have double-walled spill prevention equipment and containment sumps that are monitored once every 30 days; and
 - Inspect overfill prevention equipment at least once every three years.
- Complete annual walkthrough inspections for all containment sumps regardless of installation date.
- Conduct annual walkthrough inspections of handheld release detection equipment, such as tank gauge sticks or groundwater bailers (if applicable).
- Airport Hydrant Systems must inspect hydrant pits and piping vaults at least once every 30 days (if confined space entry is not OSHA-required) or annually (if confined space entry is OSHA-required).

More information can be found on the [PST Compliance Resources](#) webpage or in the [PST Super Guide \(RG-475\)](#).



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EPA Clarifies New Testing Requirements for Certain PST Facilities

In March 2020, EPA notified owners and operators of UST systems that they cannot use the ASTM E3225-20 standard to meet the federal testing requirements for spill buckets and sumps. Spill prevention equipment and containment sumps used for interstitial monitoring of piping must be tested to ensure that the equipment is liquid tight by using vacuum, pressure, or liquid testing per 40 Code of Federal Regulations (CFR) §280.35(a)(1)(ii) . ASTM E3225-20 (Standard Practice for Performing a Liquid Test of Spill Prevention Equipment and Containment Sumps Used for Interstitial Monitoring of Piping by Visual Examination) is a visually-based standard practice that does not use vacuum, pressure, or liquid testing procedures. Therefore, this standard cannot be used to meet the federal requirements of 40 CFR §280.35(a)(1)(ii) or the state requirements in 30 TAC §334.48(g) . If owners and operators follow ASTM E3225-20 and do not perform the correct testing requirements, they will be in violation of the regulatory requirements, and subject to appropriate enforcement. Additional guidance to assist you with UST compliance can be found at the links below:

- [Petroleum Storage Tank Spill and Overfill Prevention and Control \(RG-475e\)](#)
- [UST Systems: Inspecting and Maintaining Sumps and Spill Buckets – Practical Help and Checklist](#)

Authorization of Texas CROMERR Program Revisions

On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the Federal Register (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. On August 18, 2020, the TCEQ submitted an application titled EPA NPDES Electronic Reporting Tool (NeT) for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed TCEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Texas's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 123 and 501. EPA approves the authorized program revisions/modifications as of September 28, 2020. For additional information, contact Shirley M. Miller at (202) 566-2908, miller.shirley@epa.gov.



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Rule Revisions for the Tier II Chemical Reporting Program

The Tier II Chemical Reporting program was transferred from the Texas Department of State Health Services to the Texas Commission on Environmental Quality (TCEQ or commission) as a result of the passage of House Bill 942, 84th Texas Legislature, effective September 1, 2015. Now that the program has been fully established within the Critical Infrastructure Division, including the development of a new online reporting system and database, this proposed rulemaking would repeal and replace the existing rules, remove obsolete references, provide consistency with federal rules, provide clarity to definitions, and add requirements stemming from the new online reporting system. In addition, the proposed rulemaking would include changes to reduce the number of consolidated filings of multiple Tier II reports.

alternative of withdrawing the 2011 regulatory determination for perchlorate. The EPA received approximately 1,500 comments on the proposed rulemaking. The EPA has considered these public comments and based on the best available information the Agency is withdrawing the 2011 regulatory determination and is making a final determination not to regulate perchlorate. The EPA has determined that perchlorate does not occur “with a frequency and at levels of public health concern” within the meaning of the SDWA. In addition, in the judgment of the EPA Administrator, regulation of perchlorate does not present a “meaningful opportunity for health risk reduction for persons served by public water systems.” Accordingly, the EPA is withdrawing its 2011 determination and is making a final determination not to regulate perchlorate, and therefore will not issue a NPDWR for perchlorate at this time. For additional information, contact Samuel Hernandez at (202) 564-1735 or hernandez.samuel@epa.gov.

Drinking Water: Final Action on Perchlorate

EPA is announcing its withdrawal of the 2011 determination to regulate perchlorate in accordance with the Safe Drinking Water Act, (SDWA). On February 11, 2011, the EPA published a Federal Register document in which the Agency determined that perchlorate met the SDWA's criteria for regulating a contaminant. On June 26, 2019, the EPA published a proposed national primary drinking water regulation (NPDWR) for perchlorate and requested public comments on multiple alternative actions, including the

Upcoming Compliance Reminders

Oct

30	❖ Annual water quality fees are invoiced for Wastewater General Permits. Fees are due 30 days from the invoice date.
31	❖ Annual Air Emissions/Inspection fees are invoiced. Fees are due 30 days from the invoice date.

Nov

20	❖ Review your Pollution Prevention Plan. Plans must be updated every five years by January 1 st .
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Dec

31	❖ Categorical Industrial Users that discharge to a publicly owned treatment works without an approved pretreatment program: semi-annual report
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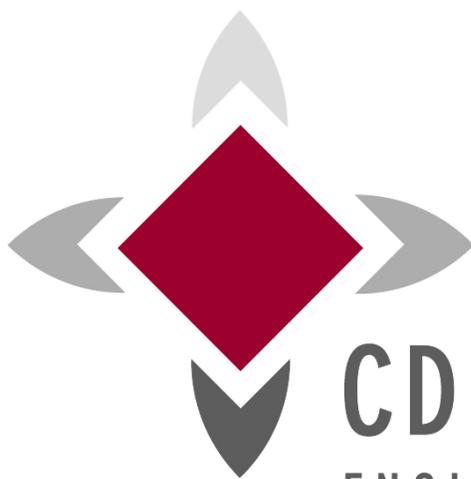
Plan Ahead!

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.

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