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Regulatory focus

ADDRESSING THE NEEDS OF THE REGULATED
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

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New Air Regulations

NESHAP: Petroleum Refinery Sector: Denying a Petition for Reconsideration

The Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for reconsideration of a final rule published in the Federal Register on February 4, 2020. The rule promulgated amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP): Petroleum Refinery Sector based on the residual risk and technology review (RTR) conducted for the Petroleum Refinery source category. On April 6, 2020, the EPA received a petition for reconsideration on five issues related to the February 4, 2020, final rule. On September 3, 2020, the Administrator notified the petitioner by letter that the EPA was denying reconsideration. The basis for the denial is set out fully in the letter sent to the petitioner, and this letter is available in the rulemaking docket. For further information, please contact Mr. Andrew Bouchard at (919) 541-4036 or bouchard.andrew@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 retaining the current standards, without revision.

NESHAP: PVC and Copolymers Production Reconsideration

On April 17, 2012, the EPA promulgated NESHAP for Polyvinyl Chloride and Copolymers (PVC) Production at major and area sources. Subsequently, the Administrator received and granted petitions for reconsideration of the emission limits in the 2012 final rules for process vents, process wastewater, and stripped resin for major and area sources. In response to the petitions and after gathering additional information from PVC companies, the EPA is proposing revisions to emission limits in the 2012 major source rule for process vents and process wastewater. Although the EPA is not proposing revisions to emission limits in the 2012 area source rule, the EPA is proposing other amendments that affect both rules, including technical corrections and clarifications related to the standards for stripped resin, storage vessels (including the use of vapor balancing), equipment leaks, and closed vent systems. The EPA is also proposing to clarify text and correct typographical errors, grammatical errors, and cross-reference errors in both rules. In addition, the EPA is proposing to remove the affirmative defense provisions. We estimate that, if finalized, these proposed amendments would result in hazardous air pollutants (HAP) emissions reductions of 34 tons per year (tpy) with an annualized cost of \$0.39 million. For further information, please contact Ms. Jennifer Caparoso at (919) 541-4063 or caparoso.jennifer@epa.gov.



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Findings of Failure To Submit SIP Revisions for the 2008 O3 NAAQS

The EPA is taking final action to find that five states failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (CAA) in a timely manner to address reasonably available control technology (RACT) requirements associated with the 2016 Oil and Natural Gas Industry Control Techniques Guidelines (CTG) for reducing volatile organic compounds (VOC) in certain nonattainment areas for the 2008 ozone National Ambient Air Quality Standards (NAAQS) and in states in the ozone transport region (OTR). The states that failed to submit the required SIP revisions to address the CTG-related RACT requirements are California, Connecticut, New York, Pennsylvania, and Texas. This action triggers certain CAA deadlines for the EPA to impose sanctions if a state does not submit a complete SIP addressing the outstanding requirements and for the EPA to promulgate a Federal Implementation Plan (FIP) if the EPA does not approve the state's SIP revision. For further information, please contact C. W. Stackhouse at (919) 541-5208 or stackhouse.butch@epa.gov

Reasonable Further Progress Plan for the D-FW O3 Nonattainment Area

Pursuant to the Federal Clean Air Act (CAA or the Act), the EPA is proposing to approve revisions to the Texas State

Implementation Plan (SIP) to meet the Reasonable Further Progress (RFP) requirements for the Dallas-Fort Worth (DFW) serious ozone nonattainment area for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, EPA is proposing to approve the RFP demonstration and associated motor vehicle emission budgets, contingency measures should the area fail to make RFP emissions reductions or attain the 2008 ozone NAAQS by the applicable attainment date, and a revised 2011 base year emissions inventory for the DFW area. For further information, please contact Carrie Paige at 214-665-6521 or paige.carrie@epa.gov.

Texas; Construction Prior to Permit Amendment Issuance

Pursuant to the Federal Clean Air Act (CAA or the Act), the EPA is approving one revision to the Texas (TX) State Implementation Plan (SIP) submitted on August, 2020, as adopted on July 15, 2020, that revised the State's New Source Review (NSR) permitting rules contained in Title 30 of the Texas Administrative Code (TAC) Chapter 116 Control of Air Pollution by Air Permits for New Construction or Modification by amending the criteria for air pollution control permits for new construction or modification, as well as make other non-substantive revisions. This rule is effective on November 13, 2020. For further information, please contact Elizabeth Layton at 214-665-2136 or layton.elizabeth@epa.gov.



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Chapter 115 VOC RACT Rules for Oil and Natural Gas CTG

The proposed rulemaking would revise 30 Texas Administrative Code (TAC) Chapter 115 to implement FCAA RACT for the oil and natural gas emission source categories covered in the EPA's oil and gas CTG in the Dallas-Fort Worth (DFW) (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties) and Houston-Galveston-Brazoria (HGB) (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties) nonattainment areas for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS).

The proposed rulemaking would add a new Chapter 115, Subchapter B, Division 7 to implement RACT for the emission source categories addressed in the CTG in the DFW and the HGB 2008 eight-hour ozone NAAQS nonattainment areas, with a compliance date of January 1, 2023. The emission source categories are centrifugal and reciprocating compressors, pneumatic pumps, pneumatic controllers, storage tanks, and fugitive emission components in the oil and gas industry. To accommodate the proposed new Division 7, the rulemaking would also revise Chapter 115, Subchapter B, Divisions 1 and 2, and Subchapter D, Division 3 by exempting from applicability those sources that would be subject to requirements of Division 7 on and after January 1, 2023.

The proposed rulemaking would implement RACT requirements including establishing emission limits and control requirements and instituting associated monitoring, inspections, and recordkeeping requirements. The rulemaking would add compliance dates for the new rules and compliance dates for emission sources that become subject to these rules after the initial compliance date.

FCAA, §172(c)(1) requires that SIPs contain reasonably available control measures for nonattainment areas, including RACT, for existing sources of emissions. FCAA, §182(b)(2)(A) mandates that states revise their SIPs to include RACT for ozone nonattainment areas classified as moderate and above for each category of VOC sources covered by CTG documents issued between November 15, 1990 and the date of attainment. Implementing the EPA's oil and gas CTG would require revising the SIP for the DFW and HGB 2008 eight-hour ozone NAAQS serious nonattainment areas. To reflect the change in the Chapter 115 rule applicability for the types of equipment currently required to comply with existing rule requirements but that would be subject to the new Subchapter B, Division 7 rule requirements upon the compliance date, the proposed rulemaking would include amendment of existing rules in Chapter 115, Subchapter B, Divisions 1 and 2, and Subchapter D, Division 3.

The rulemaking would also make non-substantive revisions to ensure rule language is consistent with current Texas Register and TCEQ style and format requirements.



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Reclassification of Major Sources as Area Sources Under Section 112 of the CAA

This rule finalizes amendments to the General Provisions that apply to National Emission Standards for Hazardous Air Pollutants (NESHAP). These amendments implement the plain language reading of the “major source” and “area source” definitions of section 112 of the Clean Air Act (CAA) and provide that a major source can be reclassified to area source status at any time upon reducing its potential to emit (PTE) hazardous air pollutants (HAP) to below the major source thresholds (MST) of 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. This rule also finalizes amendments to clarify the compliance dates, notification, and recordkeeping requirements that apply to sources choosing to reclassify to area source status and to sources that revert back to major source status, including a requirement for electronic notification. This final rule is effective on January 19, 2021. For questions about this final rule, contact Ms. Elineth Torres at (919) 541-4347 or torres.elineth@epa.gov.

inaccurate testing provisions, updates to outdated procedures, and approved alternative procedures that will provide flexibility to testers. These revisions will improve the quality of data and will not impose any new substantive requirements on source owners or operators. The final rule is effective on December 7, 2020. For further information, please contact Mrs. Lula H. Melton, at (919) 541-2910 or melton.lula@epa.gov.

Test Methods and Performance Specifications for Air Emission Sources

This action corrects and updates regulations for source testing of emissions. These revisions include corrections to



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New Environmental Compliance/ Waste/Wastewater Regulations

Potential OSHA Covid-19 Emergency Temporary Standard

Currently, the Occupational Health and Safety Administration (OSHA) has declined to issue emergency temporary standards for worker safety relating to the coronavirus pandemic. OSHA has issued a flexible enforcement memorandum with guidelines for enforcement. The current OSHA standards are reasonably applied to the pandemic. The enforcement discretion from the OSHA website states:

“OSHA recognizes that employers in many sectors may experience challenges in complying with certain provisions of the agency's standards as a result of the COVID-19 pandemic, including where those standards require the use of certain types of PPE (e.g., respirators) or provision of medical surveillance and training to workers. Accordingly, OSHA is providing enforcement flexibilities for specific provisions of certain standards and requirements to address these challenges and help ensure the continued protection of worker safety and health.”

It is expected that the incoming presidential administration will ask the OSHA to reconsider the issuance of emergency temporary standards for worker coronavirus protection. If OSHA does issue emergency temporary standards, they could take effect immediately after issuance and remain in effect until OSHA issues a permanent standard. Be on the lookout for developments on this issue.

More information on OSHA COVID-19 standards can be found at <https://www.osha.gov/coronavirus>.

Haz-Waste “e-Manifest” Advisory Board; Notice of Public Meeting

The EPA will convene the Hazardous Waste Electronic System (“e-Manifest”) Advisory Board for a three (3) day virtual public meeting. The purpose of the meeting is for EPA to seek the Board's consultation and recommendations regarding the e-Manifest system (Meeting Theme: “Looking Ahead: Setting e-Manifest Program Priorities and User Fees for FY2022 and FY2023”). The meeting will be held on March 2-4, 2021, from approximately 10:00 a.m. to 6:00 p.m. EST.

This public meeting will be conducted virtually. Registration is required to attend and/or provide oral public comment during this meeting. Please refer to the e-Manifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board> for information on how to register either as a public audience attendee or as an oral public commenter. To make oral comments during the public meeting and be included on the meeting agenda, please register by noon on February 23, 2021. Contact Fred Jenkins at jenkins.fred@epa.gov or 703-308-7049.



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TCEQ Draft Multi Sector General Permit Renewal

(From the Fact Sheet)

The Texas Commission on Environmental Quality (TCEQ) is proposing to renew TPDES Multi Sector General Permit (MSGP) TXR050000, issued August 14, 2016, which authorizes the discharge of stormwater associated with industrial activity. The draft MSGP specifies which facilities must obtain permit coverage, which are eligible for exclusion from permit requirements, which may be automatically authorized, and which may be required to obtain individual permit coverage.

The principal changes to the existing MSGP include:

A. Added North American Industrial Classification System (NAICS) and updated a few descriptions of SIC codes in Part II.A.

B. Clarified in Part II.C that applications must be submitted electronically, unless the applicant obtains a waiver from electronic reporting.

C. Changed provisional coverage to 48 hrs. for paper applications to be consistent with other water quality general permits.

D. Part II.C. Added items required on the NOI and the NOC to comply with electronic reporting requirements.

E. Part II.C. Added that Delegation of Signatory forms must be submitted using the STEERS online system.

F. Part III.A.4. Added that facilities handling pre-production plastic must implement BMPs to eliminate discharges of plastics in stormwater to be consistent with EPA's MSGP.

G. Clarified reporting requirements for numeric effluent limitations in Part III.E.6 and added a paragraph in Part III.C. to distinguish between the two types of numeric effluent limitations required: hazardous metals and discharges subject to federal effluent limitations guidelines. Clarified that results of hazardous metals are kept onsite, unless results exceed limits in the MSGP.

H. Added a table in Part III.C. providing an overview of regulated discharges subject to federal categorical guidelines. Moved sampling and reporting requirements for those discharges from Part V to this section.

I. Modified tables for numeric effluent limitations based on federal effluent guidelines in Part V to be consistent with EPA's MSGP and to clarify which stormwater sources are subject to monitoring requirements.

J. Changes to benchmark values and sampling:

Based on Benchmark Monitoring Reports received from permittees during permit years 2017 through 2019, the following changes were made after data analysis:

1. Sector T. Lowered the benchmark value for biochemical oxygen demand (BOD) from 20 mg/L to 15 mg/L.

2. Sector U (SIC codes 2074-2079): Lowered total suspended solids from 100 mg/L to 50 mg/L.



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K. Revised Part V for consistency to require rain gauges to be located onsite.

L. Added requirements to implement BMPs for off-site vehicle tracking of sediments, generation of dust, dewatering of trenches and excavations, and pumping or dewatering of standing water to Sector J in Part V.

M. Made clarifications to Sector L in Part V to be consistent with regulations for solid waste. Added a definition for “Final Cover” and “Intermediate Cover”; replaced “trenches” with “units” and added that the site map also needs to depict inactive solid waste land fill cells or units.

N. Added requirements to Sector Y in Part V to implement BMPs for the control of pollutants at rubber, miscellaneous plastic products, and miscellaneous manufacturing facilities to prevent the discharge of pollutants in stormwater to be consistent with EPA’s MSGP.

[Read the proposed 2021 MSGP, TXR050000](#)

[Read the proposed 2021 fact sheet for the MSGP, TXR050000](#)

Public Notice of Submittal to Request for Partial NPDES Program Authorization

The EPA, Region 6 is requesting comments on and will hold a public hearing for the State of Texas' application for National Pollutant Discharge Elimination System (NPDES)

authority 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 (“application for NPDES oil and gas authorization” or “the application”). 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 State's submittal of the application for NPDES oil and gas authorization and of both a public hearing and public comment period on the State's submission. The EPA will either approve or disapprove the State's request for program authorization after considering all comments received. If approved, the NPDES authority for oil and gas discharges within the State of Texas will transfer from the EPA to the TCEQ upon the date of program approval. For further information, please contact Ms. Kilty Baskin at 214-665-7500 or baskin.kilty@epa.gov.



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Final Authorization of Texas' Hazardous Waste Management Program Revision

TCEQ has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Texas' application and has determined that these changes appear to satisfy all requirements needed to qualify for final authorization and is proposing to authorize the State's changes. The EPA is evaluating public comments prior to taking final action.

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

On December 5, 2018, the State of Texas submitted a final complete program revision application seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated

between February 7, 2014, and April 17, 2015, which includes portions of RCRA Cluster XXIII and RCRA Cluster XXIV (Checklists 231 and 233A, 233B, 233C, 233D2 and 233E), as well as, state-initiated changes. The EPA has reviewed Texas' application to revise its authorized program and is proposing to find that it meets all of the statutory and regulatory requirements established by RCRA. Therefore, EPA propose to grant the State of Texas final authorization to operate its hazardous waste program with the changes described in the authorization application, except for federal provisions that were vacated from the January 13, 2015, final rule (Revisions to the Definition of Solid Waste (DSW)) by the United States Court of Appeals for the District of Columbia Circuit (*Am. Petroleum Inst. v. EPA*, 862 F.3d 50 (D.C. Cir. 2017) and *Am. Petroleum Inst. v. EPA*, No. 09-1038 (D.C. Cir. Mar. 6, 2018)).

The State of Texas will continue to have responsibility for permitting treatment, storage and disposal facilities (TSDFs) within its borders (except in Indian Country), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in the State of Texas, including issuing permits, until the State is granted authorization to do so.

Upcoming Compliance Reminders

Jan

1	❖ Executive Summary of Five-Year Pollution Prevention Plan, every fifth year.
10	❖ Groundwater or Purchased Water Systems: Disinfectant Level Quarterly Operating Report (DLQOR)
20	❖ Wastewater Discharge: Quarterly biomonitoring Discharge Monitoring Reports (DMR) and tables
21	❖ Emissions Inventory Workshop – Virtual Attendee Registration
25	<ul style="list-style-type: none"> ❖ Industrial and hazardous waste: annual summary report (paper filers). ❖ Used Oil Collection Center: Annual Report; Renewal of Registration (every odd-numbered year) ❖ Used Oil Handler: Biennial Report; Renewal of Registration (every even-numbered year)
31	❖ Computer Manufacturers, TV Manufacturers and TV Recyclers: annual recycling report

Feb

20	❖ Wastewater Discharge: January DMR
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Mar

1	<ul style="list-style-type: none"> ❖ Industrial and Hazardous Waste: annual summary report (electronic filers) ❖ Tier II chemical inventory reports ❖ Scrap-tire Transporter: annual activity report
31	<ul style="list-style-type: none"> ❖ Air Emission Inventory Annual Reports Due ❖ Multi-sector stormwater general permit for industrial storm water discharges: including benchmark monitoring summary, DMRs on numeric effluent limit (annual hazardous metals), and DMRs on sector-specific, numeric effluent limits

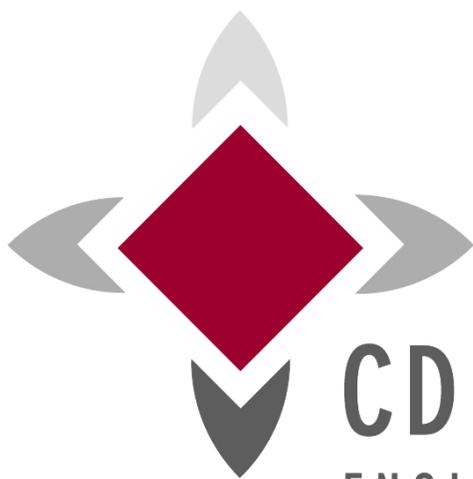
Plan Ahead!

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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