



CD ENVIRONMENTAL ENGINEERING LLC

Regulatory focus

ADDRESSING THE NEEDS OF THE REGULATED
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

2st Qtr | 2019

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Helping you achieve
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compliance goals.



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

New Air Regulations

Approval of Oklahoma; Regional Haze 5-Year Progress Report

In section 169A of the 1977 Clean Air Act (CAA) Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, visibility impairment in mandatory Class I Federal areas where impairment results from manmade air pollution. Congress added section 169B to the CAA in 1990 that added visibility protection provisions, and the Environmental Protection Agency (EPA) promulgated final regulations addressing regional haze as part of the 1999 Regional Haze Rule, which was most recently updated in 2017. The Regional Haze Rule revised the existing 1980 visibility regulations and established a more comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA's broader visibility protection regulations at 40 CFR 51.300 through 309. The regional haze regulations require states to demonstrate reasonable progress toward meeting the national goal of a return to natural visibility conditions for mandatory Class I Federal areas both within and outside states by 2064. The requirement to submit a regional haze SIP revision at periodic intervals applies to all 50 states, the District of Columbia, and the Virgin Islands. Oklahoma submitted its initial regional haze State Implementation Plan (SIP) on

February 18, 2010. Pursuant to the CAA, the EPA is proposing to approve a revision to a SIP on September 28, 2016. The SIP revision addresses requirements of federal regulations that direct the State to submit a periodic report describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the existing implementation plan. For further information, please contact Clovis Steib, at (214) 665-7566 or steib.clovis@epa.gov.

Oklahoma Interstate Transport Requirements for 1997 O3 NAAQS

The EPA is approving a portion of an Oklahoma SIP submittal that pertains to the good neighbor provision requirements of the CAA with respect to interstate transport of air pollution which will interfere with maintenance of the 1997 ozone National Ambient Air Quality Standards (NAAQS). The good neighbor provision requires, in part, that each state, in its SIP, prohibit emissions that will interfere with maintenance of a new or revised NAAQS in another state. In this action, EPA is approving the Oklahoma SIP submittal as having met the interfere with maintenance requirement of the good neighbor provision for the 1997 ozone NAAQS in accordance with section 110 of the CAA. This rule is effective as of March 4, 2019. For further information, please contact Carl Young at 214-665-6645 or young.carl@epa.gov.



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BPA 1-hr O₃ Redesignation Request and Maintenance Plan and 1997 8-hr O₃ Second 10-Year Maintenance Plan SIP Revision

On January 30, 2019, the Texas Commission on Environmental Quality (TCEQ) adopted the BPA area (Hardin, Jefferson, and Orange Counties) Redesignation Request and Maintenance Plan for the One-Hour Ozone Nonattainment Area and Second 10-Year Maintenance Plan for the 1997 Eight-Hour Ozone Nonattainment Area SIP revision. The SIP revision includes a request that EPA redesignate the BPA area to attainment for the one-hour ozone NAAQS and provides a maintenance plan that will ensure the area remains in attainment of the NAAQS through 2032. The SIP revision includes a request that the EPA also consider this plan as a second 10-year maintenance plan for the one-hour ozone standard. The SIP revision also includes a second 10-year maintenance plan for the 1997 eight-hour ozone NAAQS. For additional information, please visit the [BPA: Latest Ozone Planning Activities](#) webpage

Texas SIP RFP for the HGB Ozone Nonattainment Area

The EPA is approving a revision to the Texas SIP to meet the Reasonable Further Progress (RFP) requirements for the Houston-Galveston-Brazoria (HGB) moderate 2008 8-hour ozone nonattainment area (HGB area). EPA is approving the RFP demonstration, contingency measures, motor vehicle emissions budgets (MVEBs) and an updated 2011 base year emissions inventory. This rule is effective as of March 15, 2019. For further information, please contact Ms. Wendy Jacques at 214-665-7395 or jacques.wendy@epa.gov.



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New Environmental Compliance/ Waste/Wastewater Regulations

Final Authorization of Oklahoma Hazardous Waste Management Program Revision

On October 3, 2018, the EPA published a notice of proposed rulemaking (NPRM) to approve a revision to the State of Oklahoma 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 November 2, 2018 and EPA received five comments. Two of the comments were irrelevant to the proposed rulemaking. EPA received written adverse comments from three sources not to grant the State of Oklahoma the authorized program. The EPA has reviewed and analyzed the concerns raised by the commenters, and now issues this final rule. After consideration of these concerns, EPA is confirming that the program revisions to the State of Oklahoma 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 as of March 13, 2019. For further information, please contact Alima Patterson at (214) 665-8533 or patterson.alima@epa.gov.

Proposed Revised Definition of “Waters of the United States”

The EPA and the Department of the Army (Army) are publishing for public comment a proposed rule defining the scope of waters federally regulated under the Clean Water Act (CWA). This proposal is the second step in a comprehensive, two-step process intended to review and revise the definition of “waters of the United States” consistent with the Executive Order signed on February 28, 2017, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” This proposed rule is intended to increase CWA program predictability and consistency by increasing clarity as to the scope of “waters of the United States” federally regulated under the Act. This proposed definition revision is also intended to clearly implement the overall objective of the CWA to restore and maintain the quality of the nation's waters while respecting State and tribal authority over their own land and water resources.

The agencies propose to interpret the term “waters of the United States” to encompass: traditional navigable waters, including the territorial seas; tributaries that contribute perennial or intermittent flow to such waters; certain ditches; certain lakes and ponds; impoundments of otherwise jurisdictional waters; and (*continued*)



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wetlands adjacent to other jurisdictional waters.

The agencies propose as a baseline concept that “waters of the United States” are waters within the ordinary meaning of the term, such as oceans, rivers, streams, lakes, ponds, and wetlands, and that not all waters are “waters of the United States.” Under this proposed rule, a tributary is defined as a river, stream, or similar naturally occurring surface water channel that contributes perennial or intermittent flow to a traditional navigable water or territorial sea in a typical year either directly or indirectly through other tributaries, jurisdictional ditches, jurisdictional lakes and ponds, jurisdictional impoundments, and adjacent wetlands or through water features identified in paragraph (b) of this proposal so long as those water features convey perennial or intermittent flow downstream. A tributary does not lose its status if it flows through a culvert, dam, or other similar artificial break or through a debris pile, boulder field, or similar natural break so long as the artificial or natural break conveys perennial or intermittent flow to a tributary or other jurisdictional water at the downstream end of the break. Ditches are generally proposed not to be “waters of the United States” unless they meet certain criteria, such as functioning as traditional navigable waters, if they are constructed in a tributary and also satisfy the conditions of the proposed “tributary” definition, or if they are constructed in an adjacent wetland and also satisfy the conditions of the proposed “tributary” definition.

The proposal defines “adjacent wetlands” as wetlands that abut or have a direct hydrological surface connection to other “waters of the United States” in a typical year. “Abut” is proposed to mean when a wetland touches an

otherwise jurisdictional water at either a point or side. A “direct hydrologic surface connection” as proposed occurs as a result of inundation from a jurisdictional water to a wetland or via perennial or intermittent flow between a wetland and jurisdictional water. Wetlands physically separated from other waters of the United States by upland or by dikes, barriers, or similar structures and also lacking a direct hydrologic surface connection to such waters are not adjacent under this proposal.

The proposal would exclude from the definition of “waters of the United States” waters or water features not mentioned above. The proposed definition specifically clarifies that “waters of the United States” do not include features that flow only in response to precipitation; groundwater, including groundwater drained through subsurface drainage systems; certain ditches; prior converted cropland; artificially irrigated areas that would revert to upland if artificial irrigation ceases; certain artificial lakes and ponds constructed in upland; water-filled depressions created in upland incidental to mining or construction activity; stormwater control features excavated or constructed in upland to convey, treat, infiltrate, or store stormwater run-off; wastewater recycling structures constructed in upland; and waste treatment systems. In addition, the agencies are proposing to clarify and define the terms “prior converted cropland” and “waste treatment system” to improve regulatory predictability and clarity. For further information, please contact Michael McDavit at (202) 566-2428 or CWAwotus@epa.gov.



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TCEQ Remediation Division Transitioning to Electronic Record Keeping

The Remediation Division of the TCEQ is in the process of transitioning to electronic record keeping with the Central File Room. Therefore, paper documents submitted to the programs should include electronic copies of all submittals (on disc or USB flash drive). The electronic and hard copies should be identical, complete copies. Electronic records should be unlocked/unencrypted in order for protected personally identifiable information (PII) or confidential information to be redacted from electronic documents prior to being made publicly available for viewing.

A Correspondence ID Form (TCEQ Form 20428) must accompany each document submitted to the Remediation Division, and should be affixed to the front of your submittal. The Correspondence ID Form helps ensure that your documents are identified correctly and are routed to the applicable program for a timely response.

NetDMR Electronic Reporting Temporary Waiver Issued

If you currently have an active stormwater Multi-Sector General Permit (MSGP) TXR050000 authorization, please be aware that although the MSGP states that effective Dec. 21, 2016, all discharge monitoring reports (DMRs) must be submitted electronically using the online NetDMR reporting system, this option is not available at this time.

The NetDMR system is not ready to accept DMR online submissions from Texas MSGP permittees. The Texas Commission on Environmental Quality (TCEQ) is issuing an extension for the temporary waiver for electronic reporting.

On Feb. 28, 2019, the TCEQ issued a third temporary waiver for electronic reporting of MSGP DMRs that will expire on Aug. 14, 2021. Please continue to submit paper DMRs until such date. The temporary waiver letters have been sent via postal service to all active authorization holders. Entities that obtain an MSGP authorization starting March 1, 2019, will receive their temporary waiver with their certificate of authorization from the TCEQ ePermits system when they complete the application process. The DMR forms can be downloaded from the Monitoring and Reporting Stormwater Discharges from Industrial Facilities webpage.

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	❖ 2019 Environmental Trade Fair and Conference <u>Austin Convention Center</u> . 500 East Cesar Chavez Street, Austin, TX 78701 Early Registration: \$135 ends April 5, 2019
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June

1	❖ Dam Safety Workshop for Owners and Operators <u>The Lone Star Convention & Expo Center</u> 9055 Airport Rd., Conroe, TX 77303 Early Registration: \$65.00 ends 5/30/2019 Midnight CST / Registration/On-site Registration: \$75.00
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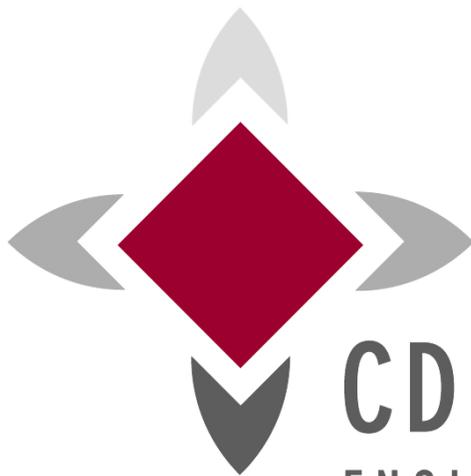
Plan Ahead!

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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