

CD ENVIRONMENTAL ENGINEERING LLC

Regulatory focus

4th Qtr | 2018

ADDRESSING THE NEEDS OF THE REGULATED
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

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Helping you achieve
your environmental
compliance goals.



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

New Air Regulations

NSPS and NESHAP Delegation of Authority to New Mexico

The New Mexico Environment Department (NMED) has submitted updated regulations for receiving delegation and approval of a program for the implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both Title V and non-Title V sources). These updated regulations apply to certain NSPS promulgated by the EPA and amended between September 24, 2013 and January 15, 2017; certain NESHAP promulgated by the EPA and amended between January 1, 2011 and January 15, 2017; and other NESHAP promulgated by the EPA and amended between August 30, 2013 and January 15, 2017, as adopted by the NMED. The delegation of authority under this action does not apply to sources located in Bernalillo County, New Mexico, or to sources located in areas defined as Indian Country. The EPA is providing notice that it is updating the delegation of certain NSPS to NMED, and taking final action to approve the delegation of certain NESHAP to NMED. This rule is effective on October 12, 2018. Contact Mr. Rick Barrett at (214) 665-7227 or barrett.richard@epa.gov.

Oklahoma SIP Updates

The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for Oklahoma submitted by the State of Oklahoma designee with a letter dated February 14, 2017. The submittal includes updates to the Oklahoma SIP, as contained in annual SIP updates for 2013, 2014, 2015, and 2016, and incorporates the latest changes to EPA regulations. This action addresses the revisions submitted to the Oklahoma SIP pertaining to incorporation by reference of federal requirements and emission inventory reporting requirements. This rule is effective on October 1, 2018. Please contact Adina Wiley at 214-665-2115 or wiley.adina@epa.gov.

The EPA is also approving portions of Oklahoma's SIP submittal that addresses a Clean Air Act requirement that SIPs account for potential interstate transport of air pollution that significantly contributes to nonattainment or interferes with maintenance of the 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) in other states. EPA finds that emissions from Oklahoma sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 PM_{2.5} NAAQS. This rule is effective on August 6, 2018. Contact Sherry Fuerst at 214-665-6454 or, fuerst.sherry@epa.gov.



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Air Quality Designations for the 2015 Ozone NAAQS-San Antonio Area

The EPA is establishing initial air quality designations for the eight counties in the San Antonio-New Braunfels, Texas Core Based Statistical Area (CBSA) for the 2015 primary and secondary NAAQS for ozone. The EPA is designating Bexar County as the San Antonio, Texas nonattainment area and the remaining seven counties as attainment/unclassifiable areas. The San Antonio, Texas nonattainment area is also being classified as Marginal by operation of law according to the severity of its air quality problem. Of the five classification categories, Marginal nonattainment areas have ozone levels that are closest to the ozone NAAQS at the time of designation. This action completes the initial designations for the 2015 ozone NAAQS. The EPA designated all other areas of the country for the 2015 ozone NAAQS in actions signed by the Administrator on November 6, 2017, and April 30, 2018. The effective date of this rule is September 24, 2018. For additional information, contact Denise Scott, at (919) 541-4280 or scott.denise@epa.gov

Good Neighbor Obligations for the 2008 Ozone NAAQS

The EPA is proposing to determine that the Cross-State Air Pollution Rule Update for the 2008 ozone NAAQS (CSAPR Update) fully addresses certain states' obligations

under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) regarding interstate pollution transport for the 2008 ozone NAAQS. The CSAPR Update, published on October 26, 2016, promulgated Federal Implementation Plans (FIPs) for 22 states in the eastern U.S. In the final CSAPR Update, based on information available at that time, the EPA could not conclude that the rule fully addressed CAA section 110(a)(2)(D)(i)(I) obligations for 21 of the 22 CSAPR Update states. This action proposes a determination that, based on additional information and analysis, the CSAPR Update fully addresses this CAA provision for the 2008 ozone NAAQS for all remaining CSAPR Update states. Specifically, EPA proposes to determine that there will be no remaining nonattainment or maintenance receptors in the eastern U.S. in 2023. Therefore, with the CSAPR Update fully implemented, these states are not expected to contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2008 ozone NAAQS. In accord with this proposed determination, the EPA proposes to determine that it has no outstanding, unfulfilled obligation under CAA section 110(c)(1) to establish additional requirements for sources in these states to further reduce transported ozone pollution under CAA section 110(a)(2)(D)(i)(I) with regard to the 2008 ozone NAAQS. As a result of this finding, this action proposes minor revisions to the existing CSAPR Update regulations to reflect that the CSAPR Update FIPs fully address CAA section 110(a)(2)(D)(i)(I). The proposed determination would apply to states currently subject to CSAPR Update FIPs as well as any states for which EPA has approved replacement of CSAPR Update FIPs with CSAPR Update SIPs. Please contact Brian Fisher at (202) 343-9633 or fisher.brian@epa.gov.



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Proposed Emission Guidelines for GHG Emissions From EGUs

EPA is proposing the Affordable Clean Energy (ACE) rule as a replacement to the CPP, which sets GHG emission guidelines for existing EGUs. This proposal relies in part on the legal analysis presented in the CPP repeal that was proposed on October 16, 2017. In the proposed repeal, EPA asserted that the BSER in the CPP exceeded EPA's authority because it established the BSER using measures that applied to the power sector as whole, rather than measures that apply at and to, and can be carried out at the level of, individual facilities. This proposed action aligns with EPA's statutory authority and obligation because, as EPA has done in the dozens of NSPSs issued to date, the BSER is to be determined by evaluating technologies or systems of emission reduction that are applicable to, at, and on the premises of the facility for an affected source. This proposal will ensure that coal-fired power plants (the most carbon dioxide (CO₂) intensive portion of the electricity generating fleet) address their contribution to climate change by reducing their CO₂ intensity (i.e., the amount of CO₂ they emit per unit of electricity generated).

Accordingly, the proposed ACE rule consists of three discrete sections. First, EPA is proposing to determine the BSER for existing EGUs based on HRI measures that can be applied at an affected source. EPA also proposes a corresponding emission guideline clarifying the roles of EPA and the states under CAA section 111(d). EPA's primary role in implementing CAA section 111(d) is to provide emission guidelines that inform the development,

submittal, and implementation of state plans, and to subsequently determine whether submitted state plans are approvable. Per the CAA, once EPA publishes a final emission guideline, states have the primary role of developing standards of performance consistent with application of the BSER. Congress also expressly required that EPA allow states to consider source-specific factors—including, among other factors, the remaining useful life of the affected source—in applying a standard of performance. In this way, the state and federal roles complement each other as EPA has the authority and responsibility to determine a nationally applicable BSER while the states have the authority and responsibility to establish and apply existing source standards of performance, in consideration of source-specific factors.

Second, EPA is proposing new implementing regulations that apply to this action and any future emission guidelines promulgated under CAA section 111(d). The purpose of proposing new implementing regulations is to harmonize our 40 CFR part 60 subpart B regulations with the statute by making it clear that states have broad discretion in establishing and applying emissions standards consistent with the BSER. The discussion for the proposed revisions is found in Section VII below.

Third, EPA is proposing to give the owners/operators of EGUs more latitude to make the efficiency improvements that are consistent with EPA's proposed BSER without triggering onerous and costly NSR permit requirements. This change will allow states, in establishing standards of performance, to consider HRIs that would otherwise not be cost-effective due to the burdens incurred from triggering NSR. Please contact Mr. Nicholas Swanson at (919) 541-4080 or swanson.nicholas@epa.gov.



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Risk Assessment for Surface Coating NESHAPs

The EPA is proposing the results of the residual risk and technology reviews (RTR) for three rules—the NESHAP for the Surface Coating of Large Appliances; the NESHAP for the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the NESHAP for the Surface Coating of Metal Furniture. The EPA is proposing to find the risks due to emissions of air toxics from these source categories 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 numerical emission limits based on these risk analyses or technology reviews. The EPA is proposing no new requirements based on the technology review of the NESHAP for the Printing, Coating, and Dyeing of Fabrics and Other Textiles. The EPA is proposing to require the use of high efficiency spray application equipment under the technology review for the two rules that employ the use of coating spray application, the NESHAP for the Surface Coating of Large Appliances and the NESHAP for the Surface Coating of Metal Furniture, if the source is not using the emission rate with add-on control compliance option. The EPA is also requesting comment on whether the high efficiency spray equipment technology requirement under the technology review is necessary in light of the risk analyses indicating that there are ample margins of safety. The EPA also is proposing to amend provisions addressing emissions during periods of startup, shutdown, and malfunction; to amend provisions regarding electronic reporting of performance test results; and to make miscellaneous clarifying and technical corrections. For the Surface Coating of Large Appliances source category, contact Ms. Kim Tealat (919)

541-5580 or teal.kim@epa.gov. For the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, contact Ms. Paula Hirtz at (919) 541-2618 or hirtz.paula@epa.gov.

NESHAP and NSP for Petroleum Refinery Sector Amendments

This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) Refinery MACT 1, which was published in the Federal Register on December 1, 2015, and subsequently amended on July 13, 2016. The December 1, 2015, action was the result of a risk and technology review in which the Environmental Protection Agency (EPA) finalized amendments to Refinery MACT 1 and Refinery MACT 2. The July 13, 2016, action finalized technical corrections and clarifications, as well as changes to compliance dates for various emission sources, including the maintenance vent standards that apply during periods of startup, shutdown, maintenance, or inspection. In this action, the EPA is proposing to amend the compliance dates for maintenance vents to January 30, 2019. These proposed revisions do not affect any other requirements in the December 1, 2015, or July 13, 2016, final actions. This proposed action will have an insignificant effect on emissions reductions and no effect on costs. For questions about this proposed action, contact Ms. Brenda Shine at (919) 541-0516 or shine.brenda@epa.gov.



Let us know how we can
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New Environmental Compliance/ Waste/Wastewater Regulations

Recodification Definition of “Waters of the United States”

The EPA and the Department of the Army (agencies) are providing a supplemental notice to clarify, supplement and seek additional comment on an earlier proposal, published on July 27, 2017, to repeal the 2015 Rule Defining Waters of the United States (“2015 Rule”), which amended portions of the Code of Federal Regulations (CFR). As stated in the agencies' July 27, 2017 Notice of Proposed Rulemaking (NPRM), the agencies propose to repeal the 2015 Rule and restore the regulatory text that existed prior to the 2015 Rule, as informed by guidance in effect at that time. If this proposal is finalized, the regulations defining the scope of federal Clean Water Act (CWA) jurisdiction would be those portions of the CFR as they existed before the amendments promulgated in the 2015 Rule. Those preexisting regulatory definitions are the ones that the agencies are currently implementing in light of the agencies' final rule published on February 6, 2018, adding a February 6, 2020 applicability date to the 2015 Rule, as well as judicial decisions preliminarily enjoining and staying the 2015 Rule. Please contact Michael McDavit at (202) 566-2428 or CWAwotus@epa.gov.

Significant New Use Rules on Certain Chemical Substances

EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 27 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 27 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination. This rule is effective on October 16, 2018. For additional information, contact Kenneth Moss at (202) 564-9232 or moss.kenneth@epa.gov.

Upcoming Compliance Reminders

October

9-11	❖ The Autumn Environmental Conference and Expo
10	❖ Groundwater or Purchased Water Systems: DLQOR
20	❖ Wastewater Discharge: Quarterly biomonitoring DMR and tables ❖ Wastewater Discharge: September DMR
30	❖ Dry Cleaners: Quarterly Registration Fee ❖ Annual Air Emissions/Inspection fees are invoiced. Fees are due 30 days from the invoice date.

December

11	❖ Petroleum Contaminated Water General Permit: 12/11/18 is the last day to renew permit coverage. This general permit coverage must be renewed every fifth year
30	❖ Annual Air Emissions/Inspection fees are invoiced. Fees are due 30 days from the invoice date.

January

1	❖ Waste Reduction Policy Act: Executive Summary of Five-Year Pollution Prevention Plan, every fifth year
10	❖ Groundwater or Purchased Water Systems: Disinfectant Level Quarterly Operating Report (DLQOR)
24	❖ Emissions Inventory Workshop
25	❖ Industrial and hazardous waste: Annual Waste Summary report (paper filers)
31	❖ Toxics Release Inventory fees are invoiced. Fees are due 30 days from the invoice date.

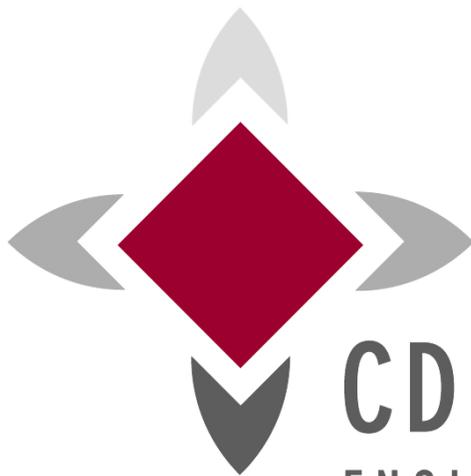
Plan Ahead!

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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