



AIR/COMPLIANCE NEWS UPDATE

AMENDMENTS TO THE EPCRA REGULATIONS EFFECTIVE DECEMBER 3, 2008

Kimberly D. Coy

On November 3, 2008, EPA published amendments to the Emergency Planning and Community Right-to-Know (EPCRA) regulations, also known as SARA Title III. Refer to 73 FR 65452. These changes were originally proposed on June 8, 1998 and clarify the reporting of hazardous chemicals in mixtures and describe changes to the Tier I and Tier II forms. The changes include:

- Hazardous Chemical Reporting Changes – 40 CFR Part 370
 - ◊ Tier I and II forms are removed from CFR and will be available online.
 - ◊ Facilities are now required to report the NAICS codes on the Tier I and II forms.
 - ◊ Chemical or common name of the chemical as provided on the MSDS must be provided on the Tier II form.
 - ◊ When determining whether the threshold quantity of an extremely hazardous substance (EHS) has been met, must include the total quantity of that EHS in the pure form as well as in any mixture, even if any mixture including the EHS is also being reported separately as a hazardous chemical.
 - ◊ For hazardous chemicals that are mixtures and do not contain any EHSs, the following options are available for determining whether the threshold quantity is present: (1) Add together the quantity present in its pure form and as a component in all mixtures, even if the mixture is being reported as a hazardous chemical, or (2) Consider the total quantity of each mixture separately.
- Emergency Planning and Release Notification – 40 CFR Part 355
 - ◊ An easy to follow table is now included, and details to who and when information is to be provided, and if subject to 40 CFR Part 355.
 - ◊ Emergency planning notification is required to the Local Emergency Planning Committees (LEPC), not just the State Emergency Response Commissions (SERC). Only SERC notification was previously required in the rule.
 - ◊ If changes at the facility relevant to emergency planning are anticipated, notification must be submitted within 30-days of such changes. No specific time period was previously provided in the rule.
 - ◊ The initial immediate notification for releases should be oral, followed by the emergency notification in writing. Previously, notification specifics were not provided in the rule.
 - ◊ The release of a reportable quantity within any 24-hour period triggers emergency notification requirements. Previously no time period given in the rule.
 - ◊ Clarification of releases during transportation is included in the rule. Notification requirements for continuous releases were reorganized to clarify that the LEPC and SERC must be notified in each of the release notifications.

RMP Alert!!!!
In June 2009, approximately 8,000 RMP facilities are due for the 5-year update of their Risk Management Plans. Contact ACCI if you need assistance with your RMP update.

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PADEP Publishes Interim Technical Guidance for Continuous Source Monitoring for Mercury

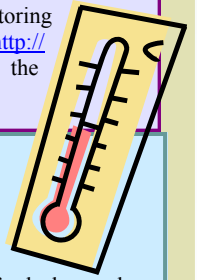
Nancy M. Hirko

PADEP has published Interim Technical Guidance pertaining to continuous source monitoring systems for mercury. The Interim Technical Guidance, Document No. 274-0300-006, became effective on September 27, 2008. The guidance document provides procedures and specifications for monitoring, certification, sampling, quality assurance, operation, recordkeeping and reporting for continuous emission monitoring systems for mercury. This Interim Technical Guidance will remain in effect until PADEP adopts revisions to the Continuous Source Monitoring Manual (CSMM). The document and appendices can be found at <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm>, follow the link "Technical Guidance."

HOT NEWS!!!!

New Petroleum Refinery MACT Requirements Proposed

EPA proposed new requirements for cooling towers and a new option for storage vessels located at petroleum refineries. The proposal also revises the definition of a leak and revises requirements for leak detection and repair programs. More information can be found in the November 10, 2008 Federal Register at <http://edocket.access.gpo.gov/2008/pdf/E8-26403.pdf>.





AIR QUALITY STANDARD FOR LEAD DRAMATICALLY STRENGTHENED

Kimberly D. Coy

EPA signed a final rule on October 15, 2008 to dramatically reduce the national ambient air quality standard (NAAQS) for lead by a factor of 10, from 1.5 to 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). This standard represents both the primary standard to protect health and the secondary standard to protect public welfare and the environment. EPA will use a maximum (not-to-be-exceeded) rolling three-month average evaluated over a three-year period as the averaging time.

The new level, which is based on the concentration in total suspended particles (TSP), is the first update since 1978, when the government phased out leaded gasoline. Highest industry lead emitters include smelters and foundries, followed by glass and cement manufacturers, waste combustors, and boilers.

EPA is also expanding and redesigning the monitoring network for lead since the existing network will not be sufficient to determine attainment status of many areas. EPA will require monitoring in areas near sources with lead emissions greater than 1 ton/yr (estimated at 135 sources) and operation of a lead monitor in every urban area with a population of 500,000 or more (estimated at 101 areas).

EPA estimates that 18 counties will violate the new lead standard, including counties in Alabama, Colorado, Florida, Illinois, Indiana, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, and Texas. State designation recommendations will be due to EPA by October 2009 and final designation by EPA are to be made by January 2012. Attainment date for the lead standard is estimated at January 2017.

PROPOSED GACT RULE FOR CHEMICAL MANUFACTURING AREA SOURCES

Kimberly D. Coy

On October 6, 2008, EPA published the proposed National Emission Standard for Hazardous Air Pollutants (NESHAP) for chemical manufacturing area sources (73 FR 58351), otherwise called GACT (Generally Available Control Technology).

Comments must be received on or before January 5, 2009. Feedstocks and products that contain these HAPs are defined to be materials that contain >0.1%

carcinogens, and >1.0% non-carcinogens. *Chemical manufacturing operations* include all process equipment and activities involved in the production of materials describe by NAICS Code 325.

Organic Compounds:

| | |
|---------------------|---------------------|
| 1, 3-butadiene | Hexachlorobenzene |
| 1,3-dichloropropene | Methylene Chloride |
| Acetaldehyde | Quinoline |
| Chloroform | Ethylene Dichloride |

HAP Metal Compounds:

| | |
|----------|-----------|
| Arsenic | Lead |
| Cadmium | Manganese |
| Chromium | Nickel |

Other:

Hydrazine



Also including each storage tank, transfer rack, cooling tower system, wastewater system, pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, and instrumentation system associated with the production of such materials.

Compliance for existing sources (construction/reconstruction of the affected source commenced before October 6, 2008) is no later than three years after the date of publication of the final rule in the FR. Compliance for new sources (construction /reconstruction of the affected sources commenced on or after October 6, 2008) is i) for new sources that starts-up before the publication date, no later than the date of publication of the final rule in the FR; or ii) new sources that starts-up after the publication date, upon startup. Go to www.air-comp.com/articles/NESHAPS for more information on this ruling.

CONTINUOUS PARAMETER MONITORING SYSTEMS: PROPOSED CHANGES TO REQUIREMENTS

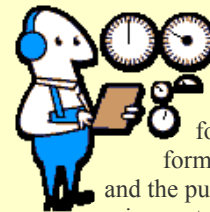
Mark C. Schooley

On October 9, 2008, the Federal Register published U.S. EPA's proposed Performance Specification 17 (PS-17) and Procedure 4 (P-4). The purpose of PS-17 and P-4 is to evaluate the acceptability of continuous parameter monitoring systems (CPMS) that monitor specific process or control device parameters pursuant to 40 CFR

and 63 (with parts 60, 61, and 63 (with some exemptions, noted below). Pro- portions, noted established the require- ments for the initial instal- tion and per- formance procedures for the CPMS, and the purpose of P-4 is to lay out the re- quirements for the ongoing quality assurance (QA) and quality control (QC) of those CPMS. PS-17 and P-4 would apply to CPMS that are used to monitor temperature, pressure, liquid flow rate, mass flow rate, pH, and conductivity as indicators of control device performance or emission source operation.

Applicability: Except for a few subparts under 40 CFR Part 63, any facility that is required to install a CPMS under any applicable subparts of 40 CFR Parts 60, 61, or 63 will be subject to PS-17 and P-4. The subparts of Part 63 that will not be affected by PS-17 and P-4 include F through I, U, AA through DD, DDD, III, JJJ, LLL, OOO, PPP, TTTT, IIIII, and LLLLLL. Those particular subparts specify that 40 CFR §63.8(a)(2), which implements monitoring requirements upon promulgation of performance specifications, does not apply. U.S. EPA is accepting comments on proposed PS-17 and P-4 until December 8, 2008. The entire text of the proposed rule can be found at:

<http://www.epa.gov/fedrgstr/EPA-AIR/2008/October/Day-09/a22674.htm>.



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Hydrazine

Manganese

Nickel

Ethylene Dichloride

pressure relief device,

instrumentation system associated with the production of such materials.

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First U.S. Auction of CO₂ Allowances Held



Jill W. Merrill

The first U.S. auction of carbon-dioxide emission allowances was held on September 25 by the Regional Greenhouse Gas Initiative (RGGI). Under RGGI, ten states are using the program to stabilize carbon-dioxide emissions from the power sector using a cap and trade program. Six states offered allowances for sale in the first auction including Connecticut, Maine, Maryland, Massachusetts, Rhode Island, and Vermont. The allowances can be used in any of the ten states participating in RGGI including the states of Delaware, New Hampshire, New Jersey, and New York that did not offer allowances in this first auction. The goal of the RGGI program is to reduce carbon-dioxide emissions through a cap-and-trade program. The states plan to reduce the cap by 2.5% per year between 2015 and 2018. Auctioning the allowances allows the states to invest the revenues in programs that reduce energy demand and the use of fossil fuels. The first auction brought \$38 million at \$3.08 per allowance.

Stay of the Competency Requirements for Air Emission Testing Bodies Ordered

Sheri L. Guerrieri



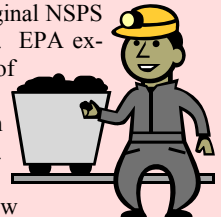
On January 24, 2008, 40 CFR Part 75 amendments included competency requirements for air emission testing bodies (AETB). As of November 4, 2008, the EPA has stayed indefinitely this requirement. The AETB provision required stack testers and stack testing companies to meet certain minimum competency requirements described in ASTM D7036 by January 1, 2009. In March, 2008, the Utility Air Regulatory Group (UARG) filed a Petition for Review claiming that EPA could not hold utilities responsible for something they cannot control.

While EPA is considering revisions to the requirements to this part to address Utility Air Regulatory Group's (UARG) concerns, it cannot propose and complete any such revision through notice and comment rule-making before the compliance date contained in the existing rule, thus necessitating this action. Despite the stay, ACCI is continuing its efforts to meet the ASTM standards and testing requirements.

PROPOSED REVISIONS TO THE COAL PREPARATION PLANTS NSPS

Nancy M. Hirko

On April 16, 2008, the Environmental Protection Agency (EPA) proposed revisions to emissions control requirements for new coal preparation plants that process more than 200 tons of coal per day. The proposed revisions to these standards reflect improvements in emission control technologies that have been developed since the original NSPS for these sources were issued in 1976. EPA expects that most owners or operators of affected coal preparation plants will need to install controls to comply with the revised PM limits of this proposal. This proposed rule reflects the performance and emissions of today's new coal preparation plants. To download the proposed rule from EPA's web site, go to "Recent Actions" at the following address: <http://www.epa.gov/ttn/oarpg>.



EPA Required to Consider BACT for CO₂ Emissions Kimberly D. Coy

On November 13, 2008, EPA's Environmental Appeals Board (EAB) decided to require EPA to consider whether Best Available Control Technology (BACT) for CO₂ emissions should be included in a Prevention of Significant Deterioration (PSD) permit issued for the construction of a new coal-fired power plant in Utah (*In re: Deseret Power Electric Cooperative*, PSD Appeal No. 07-03). The appeal was filed by the Sierra Club. The EAB's decision appears to be contrary to EPA's position that greenhouse gas (GHG) emissions should not be regulated under the Clean Air Act (CAA).

In April 2007, the US Supreme Court, in *Massachusetts vs. EPA*, found that EPA had the authority to regulate GHG emissions as a pollutant under the CAA, but only if EPA finds that the emissions endanger health or the environment through an *endangerment finding*. In July 2008, instead of making an *endangerment finding*, EPA issued the Advanced Notice of Proposed Rulemaking (ANPR), which concludes that Congress should be addressing the control of GHG emissions through new legislation, not the EPA. EPA Administrator Stephen Johnson stated in the preface of the ANPR that the CAA is "ill-suited" for regulation of GHG emissions, and regulating GHG emissions through the CAA would result in a "very complicated, time-consuming, and likely, convoluted set of regulations". The ANPR details the significant challenges EPA would face if GHG were regulated under the CAA. The EAB's decision did not require EPA to *impose* BACT for CO₂, nor did it state whether the CAA should include regulations for GHG emissions, but it does require EPA to *consider* whether CO₂ is a pollutant subject to regulation under the CAA, and hence whether CO₂ BACT is required in permitting decisions. The EAB also instructed EPA to consider the nationwide implications of their decision.



EPA Proposes Amendments to NSPS and EG for Hospital, Medical and Infectious Waste Incinerators

On November 14, 2008, EPA proposed revisions to the September 1997 new source performance standards (NSPS) and emission guidelines (EG) for hospital, medical and infectious waste incinerators (HMIWI). This action comes as a response to a Court remand and settlement agreement. The proposed emission limits would require improvements in the performance of all 57 currently operating HMIWI. These revisions have not yet been published in the Federal Register, but further information can be obtained at <http://www.epa.gov/ttn/oarpg/new.html>.

EPA Updates Emission Factors

EPA has posted the following proposed and final updates to AP-42,
 Compilation of Air Pollutant Emission Factors:
 Section 12.2- Coke Production –Posted May 21, 008- Final Update
 Section 12.5.1- Iron and Steel Production Mini-mills, Proposed Update,
 Comments due December 4, 2008
 Section 2.4- Municipal Solid Waste Landfill, Proposed Update,
 Comments due January 5, 2009
 All AP-42 document sections can be found at EPA's Technology Transfer Network (TTN) CHIEF website: <http://www.epa.gov/ttn/chief>

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- ◆ SARA Form R and Storm Water Management Plans
- ◆ Soil and Water Sampling
- ◆ Risk Management Plan Development
- ◆ Emission Control and Monitoring Assistance
- ◆ NESHAP Planning (SSM Plans)