

AIR/COMPLIANCE NEWS UPDATE



EPA Establishes Clean Air Act Standards for Boilers and Incinerators



On February 23, 2011, in response to federal court orders requiring the issuance of final standards, the EPA issued final MACT standards for boilers, process heaters, and certain incinerators. The agency received more than 4,800 comments from businesses and communities across the country in response to the

proposed rules. Public input included a significant amount of information that industry had not provided prior to the proposal. Based on this feedback, and in keeping with President Obama’s executive order on regulatory review, EPA revised the draft standards based on the requested input to provide additional flexibility and cost effective techniques – achieving significant pollution reduction and important health benefits, while lowering the cost of pollution control installation and maintenance by about 50 percent, or \$1.8 billion.

Because the final standards significantly differ from the proposals, EPA believes further public review is required. Therefore, EPA will reconsider the final standards under a Clean Air Act process that allows the agency to seek additional public review and comment to ensure full transparency. EPA’s reconsideration will cover the emissions standards for large and small boilers and for solid waste incinerators. EPA will release additional details on the reconsideration process in the near future to ensure the public, industry and stakeholders have an opportunity to participate.

The types of boilers, heaters and incinerators covered by these updated standards include:

- Boilers and process heaters at major sources of air toxics emissions that burn any type of fuel except solid waste, unless exempt under the new MACT standards for solid waste incinerators;
- Boilers at minor sources of air toxics emissions that burn coal, oil, biomass, or non-waste materials, but not boilers that burn only gaseous or any solid waste; and solid waste incinerators. . . .Continued on Page 3

U.S. SUPREME COURT TO RULE IN LANDMARK GHG LAWSUIT

The Supreme Court announced that it would take up the common law case, American Electric Power vs. Connecticut, regarding the federal Greenhouse Gas reporting and permitting rules. The case will be argued in the spring, after the U.S. Circuit Court of Appeals for the District of Columbia decides whether to stay four related EPA regulations, parts of which are due to go into effect on January 2, 2011. A ruling on the stay request is due at any time. **US Court of Appeals-DC Circuit denied the stay on December 10, 2010.**



The regulations are relevant to the Supreme Court’s consideration of the case because it may reach its conclusion by ruling on whether efforts by EPA to regulate carbon emissions in recent years have effectively supplanted any federal common law that would give the states the right to claim that emissions are a “public nuisance.” The four rules under attack from industry groups are: the “timing” rule that requires new controls of greenhouse gas emissions from stationary sources would be triggered on Jan. 2, 2011, the day that new motor vehicle standards go into effect; the “tailoring” rule that interprets the Clean Air Act in such a way that only major polluters are required to obtain permits for greenhouse gas emissions; the “endangerment” rule focusing on EPA’s initial decision in which it held that greenhouse gases are harmful; and the “tailpipe” rule, which adopts new standards for car and light-truck emissions.

The case before the Supreme Court was prompted by the combined efforts of eight states, New York City, and several land trusts to require utilities that operate fossil fuel-fired electric power plants to reduce emissions. American Electric Power Co. Inc. and several other power companies responded that the Clean Air Act supplants the federal common law when it comes to greenhouse gas emissions. In 2009, the 2nd U.S. Circuit Court of Appeals ruled in favor of the states. The implications of the Court’s decision will not only affect the utilities industry, but will likely have wide-reaching impacts on other economic sectors, including automakers, agricultural and manufacturing interests, extractive industries, and chemical companies.

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OEPA
PADEP
and WVDEP



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PADEP Secretary Announces Progress Made in Achieving Cleaner Air

In December 2010, former PADEP Secretary John Hanger discussed the progress that Pennsylvania is making to attain the National Ambient Air Quality Standards (NAAQS). Philadelphia and surrounding counties have reached air quality levels for the 8-hour health-based ozone standard established by the USEPA in 1997. Today, every area in the state has achieved air quality attainment of the 1997 standard, compared to the 37 counties designated by EPA in 2004 as "nonattainment."

In addition, both Liberty and the City of Clairton in Allegheny County attained the PM₁₀ standard for particulate matter smaller than 10 microns (or 1/100 of a millimeter). All areas in the commonwealth, except the Liberty/Clairton area, have attained the annual NAAQS for fine particulate matter smaller than 2.5 microns (PM_{2.5}).

The Clean Air Act requires EPA to set national standards for pollutants considered harmful to public health and environment. There are two types of national standards. The primary standards set limits to protect public health, including those prone to respiratory conditions. The secondary standards protect welfare by preventing damage to animals, crops, vegetation, and buildings.

Since 2003, the department has enacted measures to reduce nitrogen oxide (NO_x) by 34 percent, sulfur dioxide (SO₂) by 41 percent, particulate matter (PM₁₀) by 16 percent, and hazardous air pollutants (HAPs) by 40 percent. A wide variety of strategies contributed to the decline in ozone levels. These levels range from cleaner transportation fuels and vehicles through measures to reduce power plant and industrial emissions with pollution control technology.

Since 2003, Pennsylvania has also enacted measures to reduce the transport of ozone and its precursors within the Commonwealth and pushed for such measures throughout the eastern United States. While we have achieved an enormous amount of progress, the battle for clean air is far from over," Hanger stated. For more information, visit www.depweb.state.pa.us.



PENNSYLVANIA DISCUSSES EPA'S GHG PERMITTING GUIDANCE

At the December 16, 2010 Air Quality Technical Advisory Committee (AQTAC) meeting, Krish Ramamurthy, PADEP—Division of Permits, discussed EPA's guidance for implementation of the GHG Tailoring Rule and GHG permitting. From January 2 – June 3, 2011, only sources currently subject to PSD (other than GHG pollutants) would also be subject to permitting requirements for GHG. Only GHG increases of 75,000 tons or more on a CO₂ basis would be subject to BACT requirements. At this time, PADEP has only three pending PSD applications that will need to be updated to address GHG permitting requirements. Additional discussion concerning applicability thresholds and BACT can be obtained at: <http://www.dep.state.pa.us/dep/subject/advoun/aqtac/aqtac2010.html>.

WEST VIRGINIA RELEASES GHG PERMITTING GUIDANCE



The USEPA identified January 2, 2011 as the date that greenhouse gases (GHG) will become subject to regulation under the federal Prevention of Significant Deterioration (PSD) Permitting Program and the Title V Operating Permit Program [75 FR 31514; Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule].

WVDEP-DAQ is pursuing non-routine rule changes to their permitting rules 45CSR14 and 45CSR30 to address GHG. WVDEP-DAQ anticipates that there will be an interim period between the time GHG permitting requirements become applicable and the time EPA approves the changes to 45CSR14 as a revision to the State Implementation Plan (SIP). Similarly, there will also be an interim period between the time GHG permitting requirements become applicable and the time EPA approves the changes to 45CSR30 as a revision to the Title V Operating Permit Program. These periods will overlap but will likely be unequal in duration because of the differing procedural mechanisms DAQ will employ to effect the changes.

During these interim periods, DAQ will adopt policy consistent with EPA's new GHG permitting policy and rules. The key lies in the definition of the term "subject to regulation" that confines permitting applicability to GHG at thresholds of 75,000 - 100,000 tons per year instead of the otherwise applicable thresholds of 100-250 tons per year. For PSD, during the interim period, DAQ intends to apply the meaning of the term "subject to regulation" as defined in 40 CFR §51.166(b)(48) to PSD rule 45CSR14 in the same manner as EPA's final tailoring rule. New or modified greenhouse gas sources in West Virginia which fall below the specified cutoffs would not be emitting pollutants subject to regulation within the definition of regulated NSR pollutant and therefore would not be subject to PSD permitting requirements. Further, DAQ will apply EPA's GHG definitions, significance levels and permitting thresholds as detailed in the federal counterparts 40 CFR §51.166 and 40 CFR §52.21.

The guidance can be obtained at: <http://www.dep.wv.gov/daq/permitting/Documents/WV-GHG-GuidanceDoc.pdf>

Ohio EPA Adopts Emergency GHG Permitting Rules

On December 30, 2010, Ohio EPA adopted two new emergency rules that limit greenhouse gas (GHG) permitting requirements to only those large sources that are regulated under federal rules. Ohio Administrative Code (OAC) rule [3745-31-34](#), "Permits to install for major stationary sources and major modifications of sources emitting greenhouse gases" and OAC rule [3745-77-11](#), "Title V permits for major sources emitting greenhouse gases." have been signed by Executive Order and are effective for 90 days.

Beginning January 2, 2011, states are required by U.S. EPA to begin permitting greenhouse gas emissions from major sources. Ohio's emergency rules will provide certainty to the business community by restricting Ohio's greenhouse gas regulatory requirements to only those large sources covered by U.S. EPA's regulations. The emergency rules increase the GHG emission levels that trigger permitting to those levels set forth in U.S. EPA's greenhouse gas tailoring rule.

Additional information for companies regarding implementation of these rules will be made available over the coming days via Ohio EPA's Answer Place Topic titled "[PSD and Title V Greenhouse Gas application and permitting topics.](#)" <http://www.epa.ohio.gov/>

TRI Chemical List Expanded



On November 26, 2010, EPA expanded the TRI toxic chemical list by adding 16 chemicals (listed at right) classified as "reasonably anticipated to be a human carcinogen" by the National Toxicology Program's (NTP) Report on Carcinogens (75 FR 72727). EPA has determined that these 16 chemicals meet the EPCRA Section 313(d)(2)(B) statutory listing criteria because they can reasonably be anticipated to cause cancer in humans.

Twelve of the chemicals are listed individually, while the remaining four have been added to the polycyclic aromatic compound (PAC) category. This rulemaking to expand the TRI toxic chemical list is a part of EPA's ongoing efforts to provide communities with more complete information on chemicals. The revised toxic chemical list is effective starting with reports due July 1, 2012, for reporting year 2011.



STAY OF PERMITTING REQUIREMENT FOR CHEMICAL MANUFACTURING AREA SOURCES

In the December 14, 2010 Federal Register, EPA published a final rule to stay, for 90 days, the requirement for certain Chemical Manufacturing area sources to comply with the Title V permitting program. On June 15, 2010, EPA notified Petitioners that the Agency intended to initiate the reconsideration process in response to their request for reconsideration of certain provisions in the National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources (Part 63, Subpart VVVVVV).

Among the provisions that EPA is reconsidering is a requirement that certain affected sources obtain a permit. Because EPA believes the reconsideration process may not be completed within 90 days, they are proposing to stay the provision requiring certain sources to obtain a permit until the final reconsideration rule is published in the Federal Register. EPA is requesting public comment on this proposed stay.

| Chemical Name | CAS# |
|--|------------|
| Individual Listings | |
| 1-Amino-2,4-dibromoanthraquinone | 81-49-2 |
| 2,2-bis(Bromomethyl)-1,3-propanediol | 3296-90-0 |
| Furan | 110-00-9 |
| Glycidol | 556-52-5 |
| Isoprene | 78-79-5 |
| Methyleugenol | 93-15-2 |
| o-Nitroanisole | 91-23-6 |
| Nitromethane | 75-52-5 |
| Phenolphthalein | 77-09-8 |
| Tetrafluoroethylene | 116-14-3 |
| Tetranitromethane | 509-14-8 |
| Vinyl Fluoride | 75-02-5 |
| Polycyclic Aromatic Compounds (PACs) category | |
| 1,6-Dinitropyrene | 42397-64-8 |
| 1,8-Dinitropyrene | 42397-65-9 |
| 6-Nitrochrysene | 7496-02-8 |
| 4-Nitropyrene | 57835-92-4 |

CORBETT NOMINATES KRANCER PADEP SECRETARY



Governor Tom Corbett announced he intends to nominate Michael Krancer, 53, of Bryn Mawr, Montgomery County, as Secretary of Environmental Protection. Krancer received his bachelor's degree in economics from the University of Virginia and his J.D. from the Washington and Lee School of Law.

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In separate but related actions, EPA is finalizing emission standards for sewage sludge incinerators. While there are more than 200 sewage sludge incinerators across the country, EPA expects that over 150 are already in compliance. These standards will reduce emissions of harmful pollutants including mercury, lead, cadmium, and hydrogen chloride from the remaining 50 that may need to leverage existing technologies to meet the new standards.

EPA has also identified which non-hazardous secondary materials are considered solid waste when burned in combustion units. This distinction determines which Clean Air Act standard is applied when the material is burned. The non-hazardous secondary materials that can be burned as non-waste fuel include scrap tires managed under established tire collection programs. This step simplifies the rules and provides additional clarity and direction for facilities. To determine that materials are non-hazardous secondary materials when burned under today's rule, materials must not have been discarded and must be legitimately used as a fuel.

To read the new rules and obtain fact sheets, go to: <http://www.epa.gov/airquality/combustion/actions.html>.

HOT NEWS!!!!

40 CFR Part 51, Methods 201A and 202



Effective January 1, 2011 . . . EPA has moved forward revising the methods for Filterable PM10 / PM2.5 (Method 201A) and Condensable Particulate (Method 202). New twists are that Hexane has replaced MeCl2 for the condensable PM solvent and a minimum temp for the back-half is established.

Proposed New Method

40 CFR Part 60, Method 16C Determination of TRS from Stationary Sources

"This action proposes a method for measuring total reduced sulfur (TRS) emissions from stationary sources. The EPA is making this method available for general use as requested by a number of source testing companies since it has been allowed for use in the past on a case-by-case basis for kraft pulp mills and refineries . . ."

For the rest of the story, go to: [http://www.air-comp.com/Articles/Method 16C Proposed.pdf](http://www.air-comp.com/Articles/Method%2016C%20Proposed.pdf)



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