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Air Quality Letter

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May 2016 Issue

PERMITTING

Startup Shutdown Malfunction Update

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In a final determination published in the June 12, 2015 Federal Register, EPA acted on a Petition for Rulemaking filed by the Sierra Club asserting that the State Implementation Plans (SIP) of 39 states, including Kentucky, were inadequate due to their treatment of excess emissions associated with startup, shutdown and malfunction events. EPA found that the SIP provisions of 36 states were "substantially inadequate" and issued a SIP Call for each of these states, including West Virginia, Kentucky, Illinois, Ohio, and Colorado. Many of the state rules have been in place since the late 1970s. In broad terms, EPA concluded that provisions treating excess emissions during periods of startup, shutdown and malfunction (SSM) as excluded from emission limitations and not in violation of emission standards are at odds with the Clean Air Act.

The revised SIP submittals are due by November 22, 2016. If the state fails to submit a revision to its SIP by the deadline or if EPA finds the submittal inadequate, the finding will trigger an obligation for EPA to impose a Federal Implementation Plan (FIP) within 24 months. Additionally, mandatory sanctions will be triggered, including restrictions on highway funding.

EPA suggested that states could either remove the particular identified offending provision from the SIP, replace the provision with an alternative emission limitation such as work practice standards that would apply during startup or shutdown or rewrite the entire regulatory provision. The final determination provides examples of how states should approach alternative emission limitations and recommends that the states review the statement of EPA's updated SSM SIP Policy as of 2015.

Seventeen states filed suit in the D.C. Circuit challenging EPA's final determination, including Kentucky, Ohio and West Virginia. Individual industry petitioners and certain industry groups also filed suit,

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and environmental groups intervened. The cases were consolidated with the lead case being *Walter Coke, Inc. v. U.S. EPA,* Case No. 15-1166. The court has set a briefing schedule with final briefs due October 19, 2016. Given this schedule, a decision on the challenge is not expected until after the deadline for the states to respond to the SIP Call.

States are evaluating how best to respond. For Kentucky, EPA found Section 1(1) of 401 KAR 50:055 deficient. Kentucky has identified five options and has sought stakeholder input on those options.

1. Amend 401 KAR 50:055 and remove provisions identified as deficient from the SIP.
2. Remove provisions identified as deficient from the SIP and keep provisions as state only (state origin requirements).
3. Amend 401 KAR 50:055 to provide enforcement discretion.
4. Revise the regulations to establish emission limits/work practice standards.
5. Make no amendments to the regulations or the SIP and require EPA to issue a FIP.

These options are still in the preliminary discussion phase and have not proceeded to proposed rulemaking at this point. A stakeholder meeting to further discuss these options was held on April 19, 2016.

One of the options under consideration by Kentucky is the development of a regulation that would provide for work practice standards to be followed during SSM events since EPA's determination is clear that work practice standards are emission limitations. North Carolina has issued a proposed regulation following this approach. The North Carolina proposal establishes separate requirements for treatment of malfunction events and treatment of startups and shutdowns. For malfunctions, the approach offers sources an opportunity to seek a source specific malfunction work practice standard permit limit. Alternatively, if the source does not pursue a source specific limit, the Agency director is authorized to exercise enforcement discretion. Additionally, certain types of sources are required to have malfunction abatement plans, which the Agency director must approve. With respect to startup and shutdown, the North Carolina proposal also includes options, such as compliance with the applicable SIP emission limit or permit limit, compliance with one of the general work practice standards identified in the regulation, compliance with a work practice standard in a federal rule or compliance with a source specific work practice standard permit limit. Texas has also issued a proposal to establish alternative work practice standards that would apply in the event of exceeding numerical emission limits during upsets, maintenance or startup and shutdown

Even as the litigation over the SSM SIP Call proceeds and the affected states are evaluating regulatory changes and their response to the SIP Call, the ramifications of the SIP Call are being felt in other areas. For example, on February 3, 2016, EPA granted in part a Petition from the Environmental Integrity Project regarding the Title V permit issued to Pirkey Power Plant in Texas. The Petition concerned the incorporation by reference of a 2012 NSR permit and how the limits for opacity and particulate matter were addressed during planned maintenance or startup and shutdown activities. EPA concluded that the permit should be revised to make it clear that the SIP opacity and PM limits apply during periods of planned maintenance, startup, and shutdown. This is despite the fact that the 2012 NSR permit established alternative BACT limits for such periods. In making its decision, EPA commented on the fact that it had issued a SIP Call to Texas.

In another example of the scope of EPA's focus on this issue, EPA announced that it was revising the Arizona BART determination under the regional haze rule with respect to the Coronado Plant. Specifically, EPA determined that the affirmative defense provision should be removed, quoting discussion in the SIP Call. Coronado had argued that the affirmative defense provision was an integral part of the proposed emission limitations. EPA noted that it had issued the SSM SIP Call to Arizona. Echoing comments made in the SSM SIP Call determination, EPA noted that "if Coronado were to violate a BART emission limitation due to a malfunction, [Coronado] retains the ability to defend itself in an enforcement action and to oppose imposition of particular remedies…" 81 *Fed. Reg.* 21744.

We will continue to follow these issues as states must make decisions on SIP Call responses by November of this year.

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STATE UPDATES

Kentucky Regulatory Update

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On April 14, 2016, the Kentucky Division for Air Quality filed two sets of regulations to bring state air quality regulations current with federal regulations and designations. First, 401 KAR 51:010 was filed with various amendments to bring area designations in the state regulations current with federal designations. Second, changes to 401 KAR 53:010 were filed on the same day to update the National Ambient Air Quality Standards that have been finalized by EPA. Last, on March 4, 2016 rules regarding Stage II controls for gas dispensing facilities became final.

The Louisville Air Pollution Control District is also promulgating changes to its Stage II rules for vapor recovery, Rule 6.04. The proposed changes are currently out for public comment until May 13, 2016 with a hearing set for May 18, 2016. Information regarding public comments can be found at: **https://louisvilleky.gov/government/air-pollution-control-district/services/proposed-actions-apcd.** AQL

Ohio Aims for 2008 OzoneStandard Attainment, while EPA Rolls out Stricter 2015 Standard

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As Ohio continues to pursue attainment with the 2008 ozone standard, EPA has moved to further reduce ozone. In 2008, EPA adopted a standard of 75 ppb for ozone. Under this standard, Ohio classified the Cleveland, Columbus, and Cincinnati areas as being in "marginal" nonattainment. On January 28, 2016, Ohio proposed to redesignate the Cincinnati area as being in attainment with the 2008 standard. The proposed redesignation request covers Butler, Clermont, Clinton, Hamilton and Warren counties. According to information from the U.S. EPA Air Quality System, ozone levels trended downward for 2012-2015, with the region hitting 75 ppb or lower on average at all monitoring locations in 2014. On April 11, 2016, EPA issued a final rule giving the Cleveland area a one-year extension to achieve attainment. This extension allows Ohio to use 2013-2015 monitoring data as opposed to 2012-2015 data for the Cleveland area and could allow the area to move from marginal nonattainment to attainment for the 2008 standard

However, the area will still have to meet the more stringent 2015 standard of 70 ppb for ozone. Within a year, Ohio must recommend designations of attainment, nonattainment, or unclassifiable under the 2015 8-hour ozone standard for all areas of the state. Given the downward trend in ozone levels, Ohio will not likely have to take dramatic action such as expanding the E-Check program (currently only implemented in the Cleveland area) to meet the new standard. EPA is expected to make final designations in 2017.

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Wood Stove Revolt Kills Environmental Rules Package in West Virginia

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To become effective, all proposed changes, additions or deletions to West Virginia's environmental rules and regulations must be approved by the state legislature. This is normally uncontroversial – the operative word here is normally. Although each rule change is filed individually, they are collectively gathered together into what is called a "rules bundle" or "rules package."

This year, the West Virginia Department of Environmental Protection (WVDEP) "rules bundle" would have implemented more than a dozen new or amended environmental rules including a number of significant changes to air regulations. These included updated New Source Performance Standards (NSPS), waste combustion regulations, and regulations affecting a number of National Ambient Air Quality Standards (NAAQS).

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STATE UPDATES

Wood Stove Revolt Kills Environmental Rules Package in West Virginia

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In addition to the above rules, the WVDEP included a rule adopting by reference a newly promulgated EPA rule affecting the manufacture of wood burning stoves. The rule is already effective at the federal level and only impacts manufacturers of wood stoves sold to the public. It is not an issue for people who already own a wood stove in their home.

Specifically, the EPA rule requires manufacturers to reduce wood stove air emissions — which can include particulate matter, volatile organic compounds, carbon monoxide, and air toxics— in new stoves by roughly two-thirds. It also requires them to provide buyers with manuals with recommended operating conditions and best practices, such as not burning unseasoned or wet wood. Opponents of this rule have characterized it as another unwanted EPA intrusion into private lives, an effective ban on wood stoves, and allowing the government to inspect the type of wood being burned.

The rules package contained this and other rules that WVDEP stated are necessary to maintain its state-based regulatory program; noting that this rule was already federal law. Nonetheless, the House stripped the rules package of the wood stove portion because they claimed the rule would make the WVDEP primarily responsible for "enforcing this rule in thousands of homes across West Virginia, wasting state tax dollars and sapping resources that could be used for legitimate pollution enforcement elsewhere." According to one House Delegate, "[b] y rejecting this portion of the rule, the House sent a signal to Washington that if they wish to make such foolish regulations, they will have to enforce them on their own and send EPA officials to do so."

The Senate put back the wood-stove regulation into the bundle at the request of WVDEP. The result was a stalemate with the House refusing to back down. Consequently, the entire environmental rules package died with no action taken.

So where does this leave the rule package? West Virginia law says that the legislature cannot just ignore it. The governor can put the rules bundle on a call for a special session. WVDEP officials are also examining the possibility that the agency could legally implement some of the rules as they were submitted to lawmakers, rather than with various changes that were made during the legislative process, including some amendments that industry had sought.

Until both the governor and legislature act in a special session or WVDEP seeks to implement some form of the rules package in accordance with cases addressing what happens when the legislature fails to act, the WVDEP will continue to operate with rules currently on the books.

AQL

NAAQS

Ozone Update: States and Industry Wrestle with 2008 and 2015 Standards

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States and industry continue to react to the EPA's October 26, 2015 rule tightening the ozone National Ambient Air Quality Standard (NAAQS) from 75 ppb under the 2008 standard to 70 ppb. States, including Kentucky, and industry groups have petitioned the D.C. Court of Appeals to review the rule in a case now consolidated as *Murray Energy Corporation v. EPA,* (D.C. Cir No. 15-1385). The petitioners argue that background ozone, occurring naturally in the environment, could make it virtually impossible for some regions to attain the new 70 ppb standard. EPA has generally acknowledged that background ozone is a consideration in assessing the concentration in an individual region, but it contends that background ozone is insufficient to prevent any

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Ozone Update: States and Industry Wrestle with 2008 and 2015 Standards

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region from meeting the NAAQS. State petitioners filed their opening brief on April 22, 2016 arguing, among other things, that EPA failed to consider the effect of uncontrollable emissions on peak days and that relief measures promised by EPA are impractical and misapply portions of the Clean Air Act intended for exceptional rather than routine events. Industry petitioners further argue that EPA failed to take into account "relevant contextual factors, including the adverse social, economic, and energy impacts of those more stringent standards" and did not support the standards with a reasoned analysis and relevant scientific evidence.

Outside of litigation, EPA has received criticism for not developing ozone NAAQS screening tools that could help expedite permitting for projects that demonstrate minimal ozone impact. Traditionally, screening tools have been used for determining whether emission levels of a pollutant subject to a NAAQS standard would subject a permit application to Prevention of Significant Deterioration (PSD) review. Prior to finalizing the standard, EPA had indicated in a memo that it would propose screening tools by September, 2016; however, EPA's current rulemaking schedule still lists screening tools for proposal but does not project a date.

Even as EPA moves ahead with the 2015 standards, a coalition of environmental groups in Southern California is challenging EPA's implementation conditions for the 2008 ozone air standards claiming the rule risks backsliding once a region achieves attainment under the NAAQS. According to the petitioners, the revocation of the 1997 NAAQS allows some areas to maintain existing control measures, regardless of whether those measures fail to result in attainment. *South Coast Air Quality Management District* (SCAQMD) v. EPA, et al., No. (D. C. Cir. No. 15-1115). The petitioner also argues that by revoking the 1997 NAAQS, EPA weakened anti-backsliding protections for areas in attainment, weakened requirements to show progress towards emissions reductions, eliminated the requirement to implement control technology, and eliminated the requirement for creation of a 10-year air quality maintenance plan.

On March 17, 2016, Rep. Pete Olson (R-Texas) introduced in the U.S. House of Representatives the Ozone Standards Implementation Act of 2016 (H.R. 4775), which would extend the date for final designation of areas under the 2015 ozone NAAQS to 2025. The bill would change the mandatory review of NAAQS from five to 10 years, authorize EPA to consider technological feasibility when revising NAAQS, and require EPA to submit a report to Congress within two years regarding the impacts of foreign emissions on NAAQS compliance. The legislative changes, if enacted, would allow the 2008 ozone NAAQS to be attained before implementing the 2015 standards.

Easing of hurdles faced in demonstrating attainment with stringent NAAQS standards becomes even more important given the requirements for redesignation of an area from nonattainment to attainment. Attainment of the standard is only one component of the redesignation demonstration under the Clean Air Act, which also requires: 1) the nonattainment SIP has been fully approved by EPA; 2) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions; 3) the state has met all applicable requirements for nonattainment plans and other general requirements under the Act; and 4) EPA has approved a maintenance plan for the area, including contingency plans that provide for maintenance of the NAAQS for at least 10 years after redesignation. On March 28, 2016, the Supreme Court denied certiorari in, and thus upheld, a Sixth Circuit decision that EPA had impermissibly determined that reasonably available control technology (RACT) and reasonably available control measures (RACM) in a SIP were only necessary if needed to attain the air quality standard for the pollutant at issue in the case. *Ohio v. Sierra Club,* 2016 U. S. LEXIS 2221, 84 U. S. L. W. 3543, The Sixth Circuit's decision stands for the proposition that no requirement can be "skipped" even if the area is otherwise shown to have attained the NAAQS.

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EPA SO_2 NAAQS Designation Update

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In the first quarter of 2016, EPA has taken several actions in relation to the 2010 Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). EPA established the primary 1-hour SO_2 NAAQS at 75 parts per billion (ppb) in June of 2010. In 2013, EPA designated 29 areas in 16 states as nonattainment based on three years of air monitoring data but made no further designations. To settle litigation brought by environmental groups and certain states claiming that EPA had not timely designated all areas of the country, a consent decree was entered in 2015 scheduling three deadlines for EPA to finalize area designations: the first by July 2, 2016, the second by December 31, 2017 and the third by December 31, 2020.

A SO_2 NAAQS nonattainment designation invokes the general nonattainment area planning requirements of the Clean Air Act and its SO_2 specific planning requirements, including the emissions inventory, attainment demonstration, reasonably available control measures (RACM) and reasonably available control technology (RACT), reasonable further progress (RFP) and contingency measures that must be submitted to EPA as part of the nonattainment State Implementation Plan (SIP). A nonattainment SIP is required to demonstrate that an area will attain the NAAQS as expeditiously as practicable but no later than five years from the effective date of designation. For the areas designated as nonattainment for the SO_2 NAAQS in 2013, the nonattainment area SIPs were due on April 4, 2015 and would have been required to demonstrate attainment by October 4, 2018. On March 18, 2016, EPA published a final rule finding that 11 states, including Kentucky, Ohio and West Virginia, had failed to submit SO_2 nonattainment area SIP submittals for areas designated as nonattainment in 2013. However, EPA noted that both Kentucky and Ohio had submitted redesignation requests for the Campbell-Clermont nonattainment area in each state. EPA has not acted on these requests, but if it approves redesignation, neither state would be required to submit a nonattainment SIP for the area. See 81 *Fed. Reg.* 14736 (March 18, 2016). Jefferson County, Kentucky is also named in the EPA finding; however, Kentucky has stated that the most recent 2015 data shows Jefferson County to be attaining the standard and is working to demonstrate attainment based on the three-year average of monitoring data.

As previously reported in the *Dinsmore Air Quality Letter,* the areas EPA is required to designate by July 2, 2016 consist of two groups: (1) areas that have newly monitored violations of the 2010 SO_2 NAAQS; and (2) areas that contain any stationary sources that had not been announced as of March 2, 2015 for retirement and that according to EPA's Air Markets Database emitted in 2012 either more than 16,000 tons of SO_2 or more than 2,600 tons of SO_2 with an annual average emission rate of at least 0.45 pounds of SO_2/mmBTU. Consistent with the Clean Air Act designation process, states were provided the opportunity to make recommendations to EPA regarding designations of areas. On or about February 16, 2016, EPA notified states of its intended designations and, in many instances, did not accept the state recommendations. For instance, Kentucky's Ohio and Pulaski counties were recommended by the state for attainment designations, but EPA intends to designate both as "unclassifiable" meaning EPA determined it did not have sufficient information to designate the areas. States were given until April 19, 2016 to submit additional information to EPA prior to final designation. Additionally, EPA provided a 30-day public comment period that ended on March 31, 2016 to solicit input from interested parties other than states.

Also in March, EPA responded to the first step under the Data Requirements Rule (DRR), which requires states to identify and characterize, through monitoring or modeling, all sources that have SO_2 emissions in excess of 2,000 tons per year (tpy) for the most recent year for which emissions data is available. Federally enforceable emission limits, adopted and effective by January 13, 2017, may also be established to ensure a source will emit less than 2,000 tpy of SO_2. In this first step, states submitted their lists of sources by January 15, 2016, and EPA posted its responses to each list on April 13, 2016 at **https://www3.epa.gov/airquality/sulfurdioxide/drr.html.** The only states with no sources to be addressed under the DRR are Alaska, Delaware, Idaho, Massachusetts, New Jersey, Rhode Island and Vermont. By July 1, 2016, air agencies must identify for each listed source whether monitoring or modeling will be used to characterize air quality in the respective area or whether the source will accept federally established limits on emissions.

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PERFORMANCE STANDARDS

EPA Finalizes CSAPR Compliance Dates

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EPA issued the Cross-State Air Pollution Rule (CSAPR) in 2011 to address interstate transport and to replace the Clean Air Interstate Rule (CAIR), which the D.C. Circuit had remanded to EPA for action. CSAPR requires 28 states to limit emissions of sulfur dioxide (SO_2) and/or nitrogen oxides (NO_X).

Industry and government petitioners challenged CSAPR in the D.C. Circuit and sought a stay of the rule pending judicial review. The court granted the stay on December 30, 2011 and ordered EPA to continue administering CAIR on an interim basis until a final decision was reached on the validity of CSAPR. Subsequently, the D.C. Circuit vacated CSAPR, but the U.S. Supreme Court reversed that decision. Following the Supreme Court decision, EPA moved to lift the stay of CSAPR, and the D.C. Circuit granted the motion in October 2014.

To address implementation issues resulting from the stay, EPA adopted ministerial amendments in December 2014. Compliance with the CSAPR Phase I emissions budgets was required in 2015 and 2016 (instead of 2012 and 2013 in the original rule). Compliance with the Phase II emissions budgets and provisions was adjusted to 2017 and beyond (instead of 2014 and beyond). The amendments also tolled deadlines for other requirements such as reporting, sunsetting of CAIR-related obligations and removal of CAIR NO_X allowances from tracking system accounts. The December action was considered an interim amendment.

On March 14, 2016, EPA published a final rule in the *Federal Register* to make the interim changes permanent. EPA rejected various comments including comments opposing any tolling of the original deadlines, comments requesting that the deadlines be tolled for four rather than three years and comments asking that certain unit level allocations be adjusted.

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REPORTING

EPA Excludes T-Butyl Acetate From Definition of VOC

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On February 25, 2016, EPA published a final rule in the Federal Register that amended the regulatory definition of Volatile Organic Compounds (VOC) under the Clean Air Act to exclude t-butyl acetate (aka tertiary butyl acetate) for all regulatory purposes. The regulatory definition of VOC already excludes t-butyl acetate for purposes of VOC emission limitations and VOC content requirements on the basis that it makes a negligible contribution to ozone formation. However, the current definition still includes t-butyl acetate as a VOC for purposes of recordkeeping, emission reporting, and photochemical dispersion modeling that applied to VOCs in general. The final rule is effective on April 25, 2016.

EPA noted that its final rule and determination to remove t-butyl acetate from all regulatory requirements relating to VOCs does not indicate that EPA has reached final conclusions about all aspects of the health effects posed by the use of the chemical. EPA noted it is currently awaiting completion of the IRIS assessment associated with the potential risk of exposure to t-butyl acetate and its potential toxicity.

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REPORTING

New 2016 TSCA Chemical Data Reporting Requirements

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Under EPA's Chemical Data Reporting (CDR) Rule promulgated pursuant to the Toxic Substances Control Act (TSCA), certain chemical manufacturers, chemical importers, and toll manufacturers must report information on the chemicals to EPA every four years for the purpose of allowing EPA to assess the potential human health and environmental effects of their use. In general, the CDR rule requires manufacturers and importers of chemicals to provide EPA with information on over 7,000 chemicals that are manufactured, imported or processed at a single facility in amounts greater than 25,000 pounds during any calendar year since the last principal reporting year unless the entity is subject to an exemption, such as the exemption for small manufacturers. Companies that purchase chemicals domestically and blend them into finished products with no chemical reactions that produce other chemicals are not required to report under the CDR.

New for the 2016 reporting year is a requirement that certain manufactured or imported chemicals that are subject to certain TSCA actions must report in production amounts greater than 2,500 pounds at any single site during any calendar year. To date, EPA has not prepared a summary list of the chemicals subject to the 2,500 pound reporting threshold. The new lower reporting threshold applies to manufacturers/importers of a chemical substance that is subject to any of the following TSCA actions: (1) a rule proposed or promulgated under TSCA Section 5(a)(2), 5(b)(4) or 6; (2) an order issued under TSCA Section 5(e) or 5(f); or (3) relief that has been granted by a civil action under TSCA Section 5 or 7.

New for the 2016 reporting year is a requirement that certain manufactured or imported chemicals that are subject to certain TSCA actions must report in production amounts greater than 2,500 pounds at any single site during any calendar year.

The reporting period for the 2016 submission runs from June 1, 2016 to September 30, 2016. The report must cover manufacturing, processing and use information for production during 2012 to 2015. Other new requirements for the 2016 submittal include: (1) for facilities subject to reporting, submitters must include production volume information for all four years in the reporting period; (2) the reporting threshold for submitting processing and use information for the principal reporting year of 2015 is lowered from 100,000 pounds to 25,000 pounds; and (3) certain reporting exemptions have been modified or are no longer available.

EPA has made various guidance, FAQ responses, and electronic reporting instruction information available on its website at https://www.epa.gov/chemical-data-reporting. The website includes a discussion of all the requirements that are new for the 2016 submittal year.

Unlike the Toxic Release Inventory (TRI) Rule, which requires reporting of information on releases of certain chemical substances above regulatory thresholds, the CDR Rule focuses on the manufacture/import of chemicals and, for regulated facilities, the processing and use information for those chemical substances.

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REPORTING

EPA Proposes Changes to Greenhouse Gas Reporting

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EPA has proposed a lengthy set of revisions to its Greenhouse Gas (GHG) Reporting Rule. See "2015 Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule," 81 Fed. Reg. 2536. Published in the Federal Register on January 15, 2016, the proposal includes potential changes to 30 separate subparts of the rule, include subparts applicable to the following industrial sectors:

Stationary Combustion (Subpart C)	Pulp and Paper Manufacturing (Subpart AA)
Adipic Acid Production (Subpart E)	Soda Ash Manufacturing (Subpart CC)
Aluminum Production (Subpart F)	Electrical Transmission and Distribution (Subpart DD)
Ammonia Manufacturing (Subpart G)	Underground Coal Mines (Subpart FF)
Electronics Production (Subpart I)	Municipal Solid Waste Landfills (Subpart HH)
Glass Production (Subpart N)	Industrial Wastewater Treatment (Subpart II)
HFC-22 and HFC-23 Destruction (Subpart O)	Suppliers of Coal-based Liquid Fuels (Subpart LL)
Hydrogen Production (Subpart P)	Suppliers of Petroleum Products (Subpart MM)
Iron and Steel Production (Subpart Q)	Suppliers of Natural Gas and NGLs (Subpart NN)
Lime Manufacturing (Subpart S)	Suppliers of Industrial GHGs (Subpart OO)
Miscellaneous Uses of Carbonate (Subpart U)	Suppliers of Carbon Dioxide (Subpart PP)
Nitric Acid Production (Subpart V)	Geological Sequestration of Carbon Dioxide (Subpart RR)
Petrochemical Production (Subpart X)	Industrial Waste Landfills (Subpart TT)
Petroleum Refineries (Subpart Y)	Injection of Carbon Dioxide (Subpart UU)
Phosphoric Acid Production (Subpart Z)	

The proposal contains detailed new requirements for each of the subparts above. EPA has stated that the majority of the changes are required to streamline implementation and reduce the burden on reporting facilities or to improve the quality of data collected. Although EPA has emphasized these positive aspects of the rule, the proposal also imposes additional data collection and reporting burdens for certain industries.

For example, the proposed revisions to Subpart FF, applicable to underground coal mines, will substantially change the manner in which GHG emissions are monitored at underground mines. Currently, underground mines have the option to report GHG emissions by reference to methane monitoring already being conducted pursuant to regulatory requirements of the Mine Safety and Health Administration (MSHA). In the proposal, however, EPA

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REPORTING

EPA Proposes Changes to Greenhouse Gas Reporting

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asserts that the MSHA data is too variable and that independent monitoring of coal mine GHG emissions must be conducted. EPA has proposed that underground mines install continuous emission monitors or take new, independently collected grab samples. Industry commenters from the coal sector have indicated that this will result in a threefold increase in reporting costs under the rule.

In addition to the requirements aimed at data collection, the proposal makes numerous new confidentiality determinations. Under the GHG reporting rule, reporters can designate certain information as confidential business information (CBI). The proposed rule addresses the CBI status of numerous data elements for the following subparts: C, F, E, I, S, V, X, Y, DD, HH, II, OO, and RR. Reporters in these subcategories should carefully review these CBI determinations to determine whether additional confidentiality protections may apply.

Given the numerous and specific changes in the proposal, members of the affected industrial sectors are encouraged to carefully review the new requirements for their applicable subpart. A copy of the proposed rule can be found at **https://www.gpo.gov/fdsys/pkg/FR-2016-01-15/pdf/2015-32753.pdf.** The public comment period on the proposal has closed, and EPA has stated that it intends to respond to all public comments and issue a final rule before the end of 2016. Depending on industry sector, the proposed revisions would be phased in for implementation over the 2016, 2017, and 2018 reporting years.

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GREENHOUSE GAS EMISSIONS

Update on the Clean Power Plan's Existing Power Plant Carbon Rule

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On February 9, 2016, the Supreme Court stayed implementation of the Carbon Pollution Emission Guidelines for Existing Electric Generating Units (the Guidelines) pending judicial review. The Guidelines are one component of President Obama's Clean Power Plan, which is intended to reduce carbon dioxide (CO2) emissions by forcing a shift away from certain fuels, particularly coal, toward renewable energy sources, such as solar and wind, coupled with increased efficiency and demand side management. Under the Guidelines, power plants would be required to reduce carbon emissions to EPA-established levels beginning in 2022. Under Clean Air Act Section 111(d), the states would have to develop plans detailing measures to achieve EPA's state-specific emission levels and submit the plans for EPA approval in 2018.

The CPP's supporters claim the regulations are necessary to prevent and mitigate the harms climate change could pose to human health and the environment. CPP opponents claim it is unnecessary because the electricity market, without governmental coercion, was already drastically reducing carbon emissions from coal-fired power plants; now at a 27-year low. Opponents also claim the rules will cause unnecessary lost revenue, layoffs, and higher prices for energy consumers. Areas where coal is both mined and used to

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GREENHOUSE GAS EMISSIONS

Update on the Clean Power Plan's Existing Power Plant Carbon Rule

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produce electricity are expected to feel the strongest negative effects.

Although implementation of the existing source Guidelines has been judicially halted, EPA and many environmental activist groups are publically urging states to ignore the stay and "aggressively" move forward with plans to reduce greenhouse gas emissions. Administrator Gina McCarty claims "the train has left the station" and "renewables are the energy source of the future." So far, 20 states, including Arkansas, Illinois, Maryland, Pennsylvania and Virginia have indicated they are moving forward with compliance planning.

More importantly for purposes of this article, the recent death of Supreme Court Justice Antonin Scalia (who passed away just four days after the Supreme Court issued the stay) could have an enormous effect on the fate of the rule. Justice Scalia was one of the five justices to vote in favor of the stay; the other four justices voted against the stay.

Before Justice Scalia's death, the odds seemed to be against EPA because the stay signaled skepticism among at least five justices that the Guidelines were valid. Many believe that Justice Scalia's "intellectual fingerprints" were apparent in the stay. Even with the common caveat that "predicting Supreme Court outcomes is a bit like reading tea leaves," everyone agrees that the likelihood of the Guidelines being upheld improved with Justice Scalia's death.

Likewise, many believe that if President Obama's nominated justice is confirmed, the newly reconstituted court will likely affirm when the case is ultimately heard. If, however, the Senate decides not to confirm a new justice until one is nominated by the new president in 2017, a different result may come from the new court. If only eight justices hear the case, a 4-4 tie effectively affirms the lower court decision.

So what will happen going forward? First, litigation will proceed in the D.C. Circuit where the odds are the court will uphold EPA's action; not only because those particular judges are viewed as more liberal but also because lower courts reviewing agency action often defer to the agency.

Regardless of the D.C. Circuit's decision, the loser will petition the Supreme Court for review. It takes four justices to grant a petition for writ of certiorari. Four justices voted against the stay, so there are likely to be four votes to grant the petition no matter who wins in the D.C. Circuit. Assuming that the Court will grant certiorari to hear the case, that's when things will get really interesting. AQL

AIR TOXICS

Utility MATS Update

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As previously reported in the *Dinsmore Air Quality Letter,* the United States Supreme Court ruled last year in *Michigan v. EPA* that EPA unreasonably interpreted the Clean Air Act when it failed to consider cost in determining whether regulation of air toxics from power plants was appropriate and necessary, a Clean Air Act Section 112 prerequisite to regulation of hazardous air pollutants from power plants. The 5-4 Supreme Court decision reversed a D.C. Circuit opinion upholding EPA's rule, commonly referred to as the Mercury and Air Toxics Standards (MATS), and remanded the case to the D.C. Circuit for further action.

Upon remand, states critical of the rule and the power industry requested that the court vacate the rule. EPA asked the court to uphold the rule and return MATS to the agency. On December 15, 2015, the D. C. Circuit granted EPA's request, leaving the rule in place despite the Supreme Court's decision. Twenty states, led by Michigan and including Kentucky, Ohio and West Virginia, requested the Supreme Court to stay the D. C. Circuit's action leaving MATS in place, but the states' request was denied on March 3, 2016 by Chief Justice John Roberts. The denial came without explanation but was issued shortly after the death of Justice Antonin Scalia, who authored the Supreme Court's opinion.

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Utility MATS Update › Continued from page 11

On March 18, 2016, the states petitioned the Supreme Court to review the D. C. Circuit's decision not to vacate MATS and specifically to answer the question "[w]hen an agency promulgates a rule without any statutory authority, may a reviewing court leave the unlawful rule in place?" The states again claim that MATS should have been vacated but also raise the question of how invalidated rules should be treated on remand. The death of Justice Scalia leaves an even 4-4 split between liberal and conservative justices causing many to wonder whether the high court will take the case and, even if it does, whether the result would be a 4-4 split leaving the D. C. Circuit decision in place.

Meanwhile, EPA has published and accepted public comment on a supplemental appropriate and necessary finding dated December 1, 2015, that includes a cost analysis, which EPA believes meets the Supreme Court's requirements. In the analysis, EPA considered the annual compliance costs as a percent of total power sector sales, annual compliance capital expenditures compared to the power sector's annual capital expenditures, the impact on retail price of electricity, and the impact on power sector resource capacity. The public comment period ended January 15, 2016, and the final analysis was released on April 15, 2016, prior to publication in the Federal Register. Not surprisingly, EPA's analysis supports its finding that the rule is appropriate and necessary even after considering cost. While the final cost analysis is likely to face challenges, April 16, 2015 was the compliance date for all operating plants to meet the requirements of the rule absent an implementing agency authorized one year extension until April 16, 2016.

Finally, on April 6, 2016, EPA published in the Federal Register a final rule containing technical corrections to MATS and the associated new source performance standards (NSPS) for coal and oil-fired electric generating units. In the rule, EPA broadly categorized the corrections as a) resolution of conflicts between preamble and regulatory text, b) corrections that were inadvertently not made that EPA stated it would make in response to comments, and c) clarification of language in regulatory text. See 81 *Fed. Reg.* 20172 (April 6, 2016). EPA also removed the provision establishing an affirmative defense for malfunctions in response to the D. C. Circuit 2014 decision in *NRDC v. EPA*. The rule became effective on April 6, 2016.

AQL

EPA Proposes Changes to the Risk Management Program

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On March 14, 2016, EPA published in the *Federal Register* proposed rules to amend the Accidental Release Prevention Requirements of Risk Management Programs (RMP) under the Clean Air Act, Section 112(r)(7). See 81 *Fed. Reg.* 13638 (March 14, 2016). The proposed revisions are in response to Executive Order 13650 issued by President Obama on August 1, 2013 after the explosion at the West Fertilizer facility in West, Texas on April 17, 2013 that killed 15 people. The Executive Order directed the federal government to carry out a number of tasks to develop options that identify "improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations" according to EPA. EPA states that RMP regulations have been effective in preventing and mitigating chemical accidents in the United States but further protections could be gained through the advancement of process safety management based on lessons learned.

For compliance audits at certain process facilities, the proposed rules include changes that would require a third-party audit if an accidental release meeting certain criteria occurred or if an implementing agency required a third-party audit based on non-compliance with RMP requirements. A new section has been added governing third-party audits, including: competency provisions requiring a licensed professional engineer be part of the audit team; impartiality requirements such that an auditor cannot have provided research, development, design, construction or consulting services for the source three years before or after the audit and cannot provide advice on implementation of the findings or recommendations in an audit report. The auditor would be required to submit the audit report to the implementing agency

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EPA Proposes Changes to the Risk Management Program

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at the same time, or before, the report is provided to the source. The proposed rule also affirmatively removes the attorney-client privilege from audit reports "even if written for or reviewed by legal staff." Further, the source would be required to maintain copies of all draft third-party audit reports and provide draft reports to the implementing agency if requested.

At certain facilities, an incident report, rather than a summary, would be required after incident investigations. The report would include more information related to the incident, such as consequences of the incident, emergency response actions taken and factors contributing to the incident, and a root cause determination. "Root cause" is defined in the proposed rule as "a fundamental, underlying, system-related reason why an incident occurred that identifies a correctable failure(s) in management systems."

The proposed rule also calls for new emergency response coordination activities, including exercises and drills with facility emergency response personnel, response contractors and local emergency response and planning officials. EPA proposed that all facilities would provide chemical hazard information for all regulated processes to the public in an easily accessible manner, such as a website, including safety data sheets, accident history information and emergency response program information. Certain facilities would have to provide additional information, including compliance audit reports, to the Local Emergency Planning Committee.

Comments on the proposed rule must be submitted to EPA by May 13, 2016.

AQL

ENFORCEMENT

EPA FY 2017 – 2019 Enforcement Initiatives Announced

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On February 18, 2016, EPA announced its national enforcement initiatives (NEIs) for fiscal years 2017 through 2019. NEIs purport to allow EPA to focus its enforcement budget on higher-priority targets responsible for large shares of environmental violations. Every three years, EPA takes comments regarding which current initiatives it should drop and whether it should add new initiatives. For FY17-19, EPA recently announced two completely new NEIs, an expansion of an existing NEI, and the continuation of four of the five existing initiatives.

The new NEIs will focus on chemical releases and industrial water pollution. According to EPA, the chemical release NEI will focus on "reducing the risks of accidents through innovative accident prevention measures, and improving response capabilities." As part of this NEI, EPA has proposed revisions to its risk management plan rule for facilities that store hazardous chemicals. The industrial water pollution NEI will address facilities in the chemical and metal manufacturing, mining, and food processing sectors causing nutrient and metal pollution in protected waters. EPA has stated that enforcement in this area will be "driven by water pollution data" and will include enforcing existing Clean Water Act permit limits and stopping unpermitted discharges. In addition, EPA's existing NEI focusing on hazardous air pollutants will continue for at least another three years. However, EPA has expanded its scope to focus on air releases from organic liquid storage tanks and the protection of vulnerable communities.

The other four existing NEIs being renewed focus on reducing air pollution from the largest sources, ensuring energy extraction operations comply with environmental laws, keeping raw sewage and contaminated stormwater out of water, and preventing water contamination from animal waste. The agency plans to drop the current NEI focusing on mineral processing operations, which, according to EPA, will have achieved EPA's goal for compliance improvements by FY17.

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ENFORCEMENT

State Governments and FBI Launch Investigations of ExxonMobil Over Climate Change

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Exxon Mobil Corporation (ExxonMobil) has come under investigation for allegedly misleading investors regarding climate change risks and failing to disclose truthful information regarding climate science. On January 12, 2016, the Department of Justice referred to the Federal Bureau of Investigation a request from two California congressional representatives for an investigation of whether ExxonMobil may have violated the Racketeer Influenced and Corrupt Organizations Act and related laws based on its alleged actions and knowledge of climate science.

The Attorney General of the United States Virgin Islands (USVI) is currently investigating whether ExxonMobil violated its state version of RICO, alleging a suspected civil violation "by having engaged or engaging in conduct misrepresenting Your knowledge of the likelihood that Your products and activities have contributed and are continuing to contribute to Climate Change in order to defraud the Government of the United States Virgin Islands and consumers in the Virgin Islands."

The USVI Attorney General subsequently obtained issuance of a subpoena to ExxonMobil seeking documents related to the existence, impact, and severity of climate change. The subpoena gave the company one month to respond. On April 13, 2016, ExxonMobil petitioned a Texas court, its principal state of business, for declaratory relief against the USVI Attorney General and a private law firm representing the Virgin Islands. The company alleged that the defendants' actions in issuing the subpoena "violate ExxonMobil's constitutionally protected rights of freedom of speech, freedom from unreasonable searches and seizures, and due process of law and constitute the common law tort of abuse of process."

Beyond ExxonMobil, other companies may begin to see increased government scrutiny relating to disclosure of risks associated with green house gas emissions.

According to ExxonMobil, the subpoena gave one month to produce documentation, including: all communications on climate change over a 39-year period, including studies, research or other reviews regarding the certainty, uncertainty, causes or impacts of climate change; public opinions or reviews in that time period received from 88 named organizations, 54 named scientists, professors and other professionals, and covered an employee base of 73,500 people. ExxonMobil alleged that the subpoena is designed to improperly target political speech and is intended to deter it from participating in the public debate over climate change now and in the future and chill others from expressing an opinion on climate change that runs counter to the view held by a coalition of this and other state attorneys general.

Investigations based on climate change knowledge are not likely to go away amid growing calls from environmental groups to act and attention given to this issue in the United States Presidential race by Senator Bernie Sanders and Former Secretary of State Hillary Clinton.

Beyond ExxonMobil, other companies may begin to see increased government scrutiny relating to disclosure of risks associated with green house gas emissions. The environmental groups and attorneys general pushing for the ExxonMobil investigation have also expressed interest in expanding the investigation to other companies in the energy sector. Also, in 2010, the SEC issued interpretive guidance indicating that reporting entities should disclose risks related to climate change. SEC, Commission Guidance Regarding Disclosure Related to Climate Change (Feb. 2, 2010). SEC disclosures relating to climate change could be the "hook" that activist state governments use to pursue litigation as stockholders in publicly traded companies through their employee retirement funds and by other sources.

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NEXT ›

ENFORCEMENT

Appeals Court Upholds "Diligent Prosecution" Bar to Clean Air Act Citizen Suits

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The Third Circuit has rejected an environmental group's citizen suit against a Pennsylvania coke plant, finding that regulators' "diligent prosecution" of the plant bars their claims for Clean Air Act violations. The ruling in the case Group Against Smog and Pollution (GA*SP) v. Shenango, Inc.,* No. 15-2041 (3rd. Cir. Jan. 6, 2016) (GASP), could restrict environmental groups' ability to pursue Clean Air Act citizens' suits in the 3rd Circuit and elsewhere.

GASP sued Shenango in 2014 for alleged violations of applicable opacity limits, even though a prior U.S. District Court enforcement action (brought by EPA, the Pennsylvania Department of Environmental Protection, and the Allegheny County Health Department (ACHD), which enforces the Pennsylvania State Implementation Plan (SIP)), had previously concluded through a Consent Decree addressing opacity violations. The court retained jurisdiction for the purposes of enforcing the consent decree. Subsequent legal action by ACHD against Shenango in Pennsylvania state court in 2014 resulted in a further Consent Order and Agreement, which reaffirmed the 2012 Consent Decree and addressed further claims of emissions violations.

The district court dismissed GASP's claims, on the basis that the air regulators' "diligent prosecution" of their enforcement action against Shenango, which addresses the same alleged violations deprived the court of its jurisdiction to hear the case. The Clean Air Act's citizen suit provisions state that no citizen action may be commenced "if the [EPA] Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order."

On appeal, the Third Circuit also found that the "diligent prosecution" bar applied to GASP's claims, but not due to a lack of jurisdiction. Instead, the 3rd Circuit found that the regulators' enforcement action barred the GASP citizen suit, regardless of whether or not that enforcement action had ended. The Court stated, "We hold that when a state or federal agency diligently prosecutes an underlying action in court, the diligent prosecution bar will prohibit citizen suits during the actual litigation as well as after the litigation has been terminated by a final judgment, consent decree, or consent order and agreement."

In reaching its decision, the 3rd Circuit cited rulings by the 1st, 4th, 7th and 10th Circuits to support its position. The court's holding is expected to limit the ability of environmental groups to bring suit under the Clean Air Act's citizen suit provisions in cases where regulatory agencies have already brought enforcement actions.

AQL

EPA Launches Online Self Disclosure Web Portal

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On December 9, 2015, EPA announced the launch of a new web-based eDisclosure system that allows regulated entities to submit self-disclosures pertaining to violations uncovered during environmental audits conducted pursuant to: (1) the Audit Policy titled "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (65 Fed. Reg. 19618) (Audit Policy), or (2) the Small Business Compliance Policy (65 Fed. Reg. 19630) (80 Fed. Reg. 74676). Under those policies, entities that voluntarily disclose and correct violations uncovered may be entitled to mitigation of civil penalties. EPA is not modifying the substantive conditions under either of these policies,

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EPA Launches Online Self Disclosure Web Portal

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but, by setting up the eDisclosure system, EPA intends to allow members of the regulated community to disclose violations more easily and EPA to process disclosures more efficiently.

Audit Policies

EPA's Audit Policy provides significant incentives for regulated entities that self-disclose environmental violations in accordance with the terms of the Policy. In general, if all Audit Policy conditions are met, EPA will not refer the matter for criminal prosecution and will waive up to 100 percent of gravity-based penalties, which are based on the seriousness of the violation and represent the punitive component of a civil penalty. The Small Business Compliance Policy allows similar incentives for entities with up to 100 employees.

New eDisclosure Categories

The eDisclosure system will accept two newly defined categories of self-disclosures —"Category 1" and "Category 2" disclosures. Category 1 disclosures are limited to Emergency Planning and Community Right-to-Know Act (EPCRA) violations that meet all Audit Policy or Small Business Compliance Policy conditions. Category 1 excludes: (i) chemical-release reporting violations under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 103 or EPCRA Section 304, and (ii) EPCRA violations that resulted in significant economic benefit as defined by EPA. The new eDisclosure system will automatically issue an electronic Notice of Determination (eNOD) confirming that the violations are resolved with no assessment of civil penalties, conditioned on the accuracy and completeness of the submitter's disclosure. EPA will spot check Category 1 disclosures to ensure compliance with EPCRA, and disclosures meet the conditions of the Audit Policy, the Small Business Compliance Policy, and eDisclosure.

"Category 2" disclosures include (i) all non-EPCRA violations; (ii) EPCRA violations with respect to which the regulated entity cannot meet the Audit Policy's "systematic discovery" condition but can meet its other conditions; and (iii) EPCRA/CERCLA violations excluded from Category 1. The eDisclosure system will automatically issue an Acknowledgement Letter noting EPA's receipt of the disclosure and notifying the entity that EPA will make a determination as to eligibility for penalty mitigation if, and when, it considers taking enforcement action for environmental violations. EPA will screen Category 2 disclosures for significant concerns such as criminal conduct and potential imminent hazards. Note that all preexisting, unresolved disclosures are now classified as Category 2, unless preexisting EPCRA disclosures are resubmitted by April 8, 2017.

New eDisclosure Process

Entities wishing to disclose a potential violation through the eDisclosure system must follow a three-step process. First, the entity must register with EPA's Central Data Exchange (CDX) system. Second, the entity must disclose the violation online. Third, the entity must submit a Compliance Certification in the eDisclosure system certifying that any noncompliance was timely corrected. Users must report violations via the eDisclosure System within 21 days of discovery, in accordance with the existing Audit Policy. Within 60 days of submitting an Audit Policy disclosure or within 90 days of submitting a Small Business Compliance Policy disclosure, the user must submit a "Compliance Certification" to the eDisclosure System. The certification must identify the specific violation being disclosed, certify that the violation has been corrected, and certify that the Audit Policy or Small Business Compliance Policy requirements have been met.

Corrective Action Extensions

EPA is also automating the process for handling corrective action extension requests by creating procedures dependent upon the disclosure category. For Category 1 Audit Policy Disclosures, EPA will not issue corrective action extensions. Instead, if the user requests an extension for a Category 1 disclosure, the disclosure will potentially be eligible only for Category 2 treatment. For Category 2 Audit Policy Disclosures, users can make an online request for a 30-day extension of the corrective action deadline without any explanation. The extension will be granted automatically by the eDisclosure system at the time of request. Users can make an online request for an additional extension, provided the date does not extend beyond 180 days after the date of discovery. If a user is making this additional request, it must include a justification for the extension. For Category 2 Small Business

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Compliance Policy Disclosures, users can make an online request for a 90-day extension without any explanation. The extension will be granted automatically by the eDisclosure system at the time of request. Users can make an online request for an additional extension, provided the date does not extend beyond 360 days after discovery. If a user is making this additional request, it must include a justification for the extension.

New Owner Policy

Owners of newly acquired facilities can benefit from penalty mitigation beyond what the Audit Policy offers if they disclose violations within nine months of becoming a new owner and meet other requirements of the New Owner Policy. New owners may now elect to use eDisclosure for violations at their new facilities but doing so will not provide the expanded benefits of the New Owner Policy. EPA will continue to accept and manually process disclosures under the New Owner Policy outside of the eDisclosure system.

Confidentiality Concerns

The eDisclosure system is not designed to receive or process any information claimed as confidential business information (CBI). Entities must submit sanitized (non-CBI) information through the online system. Follow-up CBI must be submitted manually according to EPA procedures and the requirements of 40 CFR Part 2. Concerns with submittal of CBI to the agency have increased because, effective December 9, 2015, EPA has eliminated its presumption against release of information related to unresolved disclosures of environmental violations.

EPA's development of the eDisclosure system signals a renewed interest in encouraging continued use of the Audit and Small Business Compliance policies. The new system will is likely to save time and resources for Category 1 violations. However, users submitting Category 2 disclosures may not receive resolution from EPA unless and until EPA decides to bring an enforcement action.

AQL

OTHER SIGNIFICANT NOTES

Did You Know?

The EPA provided notice of emission allowance allocations to certain units under the new unit set aside (NUSA) provisions of the Cross State Air Pollution Rule (CSAPR) federal implementation plans (FIPs). EPA recorded the allocated CSAPR allowances in sources' Allowance Management System (AMS) accounts by February 15, 2016.

EPA announced the submission of a continuing information collection request to the OMB regarding the NSPS for small municipal waste combustors (40 CFR 60, Subpart AAAA). The collection addresses requirements for owners and operators of affected facilities to submit initial notifications, performance tests and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction, or when the monitoring system is inoperative. Comments were due March 30, 2016.

EPA announced the submission of a continuing information collection request to the OMB regarding the NSPS for stationary combustion turbines (40 CFR 60, Subpart KKKK). The collection addresses requirements for owners and operators to submit initial notification, performance tests, and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction, or when the monitoring system is inoperative. Comments were due March 30, 2016.

EPA has submitted an ICR on "NSPS for Surface Coating of Plastic Parts for Business Machines (40 CFR part 60, subpart TTT) (Renewal)." This regulation impacts facilities that perform industrial surface coating on plastic parts for business machines. Owners or operators of the affected facilities must make an initial notification report, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Comments were due March 18, 2016.

AQL

Air Quality Letter

Readers are invited to provide comments, suggestions or newsworthy materials to the editors of the newsletter listed below. All input is welcome.

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