



CE Newsletter

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Offices in Amarillo, Dallas, and Houston

3rd Quarter 2008

EPA SEEKING COMMENTS ON GREEN HOUSE GAS REGULATIONS

On July 30th, the EPA issued an advance notice of proposed rulemaking (ANPR) that presents information relevant to, and solicits public comment on, how to respond to the U.S. Supreme Court's decision in Massachusetts v. EPA. In that case, the Supreme Court ruled that the Clean Air Act (CAA or Act) authorizes regulation of greenhouse gases (GHGs) because they meet the definition of air pollutant under the Act. In view of the potential ramifications of a decision to regulate GHGs under the Act, the notice reviews the various CAA provisions that may be applicable to regulate GHGs, examines the issues that regulating GHGs under those provisions may raise, provides information regarding potential regulatory approaches and technologies for reducing GHG emissions, and raises issues relevant to possible legislation and the potential for overlap between

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EPA ISSUES NEW CONSTRUCTION STORMWATER PERMIT

On July 14th, EPA Regions 1, 3, 6, 7, 8, 9, and 10 issued their 2008 National Pollutant Discharge Elimination System general permits for stormwater discharges from new dischargers engaged in large and small construction activities. New dischargers are those who did not file a notice of intent (NOI) to be covered under the 2003 construction general permit before it expired. Existing dischargers who properly filed an NOI to be covered under the 2003 CGP continue to be authorized to discharge under that permit according to its terms. The 2008 CGP contains the same limits and conditions as the Agency's 2003 CGP with the exception of a few minor modifications. The significant difference between the 2003 and 2008 CGPs is that this permit has been reorganized so that it is clearer which requirements are effluent limitations, which are inspection requirements, and which are SWPPP documentation requirements. As a result, the 2008 CGP

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EPA ISSUES DRAFT CONTROL GUIDELINES FOR PLASTICS AND METAL PARTS COATING OPERATIONS

On July 14th, the EPA issued guidance on a determination whether control techniques guidelines will be substantially as effective as national regulations in reducing emissions of volatile organic compounds in ozone national ambient air quality standard nonattainment areas from the following five product categories: Miscellaneous metal products coatings, plastic parts coatings, auto and light-duty truck assembly coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. Based on this determination, the EPA may issue control techniques guidelines in lieu of national regulations covering these product categories. The EPA also issued draft control techniques guidelines for the control of volatile organic compound emissions from each of the product categories covered by this proposed determination. Once finalized, these control techniques guidelines will provide guidance to the States concerning EPA's recommendations for reasonably available control technology-level controls for these product categories. The EPA further proposes to take final action to list the five Group IV consumer and commercial product categories addressed in this notice pursuant to Clean Air Act section 183(e). For further information contact: Ms. Kaye Whitfield at (919) 541-2509 or whitfield.kaye@epa.gov.

EPA SEEKING COMMENTS ON GREEN HOUSE GAS REGULATIONS (CONTINUED)

(Continued from page 1)

legislation and CAA regulation. In addition, the notice describes and solicits comment on petitions the Agency has received to regulate GHG emissions from ships, aircraft and non-road vehicles such as farm and construction equipment. Finally, the notice discusses several other actions concerning stationary sources for which EPA has received comment regarding the regulation of GHG emissions. The implications of a decision to regulate GHGs under the Act are so far-reaching that a number of other federal agencies have offered critical comments and raised serious questions during interagency review of EPA's ANPR. Rather than attempt to forge a consensus on matters of great complexity, controversy, and active legislative debate, the EPA has decided to publish the views of other agencies and to seek comment on the full range of issues that they raise. Comments must be received on or before November 28, 2008. For further information contact Joe Dougherty at (202) 564-1659 or Dougherty.Joseph-J@epa.gov.



EPA PROPOSES NPDES GENERAL PERMIT FOR COMMERCIAL AND RECREATIONAL VESSELS

On June 17th, EPA Regions 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 proposed a NPDES Vessel General Permit (VGP) to cover discharges incidental to the normal operation of commercial vessels and recreational vessels greater than or equal to 79 feet in length and an NPDES Recreational General Permit (RGP) to cover discharges incidental to the normal operation of recreational vessels less than 79 feet in length. This action is in response to a District Court ruling that vacates, as of September 30, 2008, a long-standing EPA regulation that excludes discharges incidental to the normal operation of a vessel from the need to obtain an NPDES permit. Although EPA has filed an appeal with the 9th Circuit Court of Appeals, as a practical matter, the Agency cannot simply await the outcome of that appeal. This is because if the District Court's order remains unchanged, as of September 30, 2008, discharges of pollutants incidental to the normal operation of a vessel that had formerly been exempted from NPDES permitting by the regulation will be subject to the prohibition in CWA section 301(a) against the discharge of pollutants without a permit. EPA solicited information and data on discharges incidental to normal vessel operations to assist in developing these proposed NPDES permits in a Federal Register Notice published June 21, 2007 (72 FR 32421). The majority of information and data in response to that notice came from seven different groups: Individual citizens, commercial fishing representatives, commercial shipping groups, environmental or outdoor recreation groups, the oil and gas industry, recreational boating-related businesses, and state governments. EPA considered all such resulting information and data along with other available information in developing the two proposed vessel permits. For further information on the proposed commercial vessel NPDES general permit call 202-564-0763 or e-mail: CommercialVesselPermit@epa.gov. For further information on the proposed recreational vessel NPDES general permit contact Juhi Saxena at 202-564-0719 or RecreationalVesselPermit@epa.gov.

EPA ISSUES NEW CONSTRUCTION STORMWATER PERMIT (CONTINUED)

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now includes new sections (Part 3—Effluent Limits, Part 4--Inspections, and Part 5--Stormwater Pollution Prevention Plans) reflecting this reorganization. However, EPA emphasizes that although the requirements in the 2008 CGP have been placed in different sections, the requirements are substantially the same as they were in the 2003 CGP.

EPA is issuing this CGP for a period not to exceed two (2) years and will make the permit available to new construction activities and unpermitted ongoing activities only. This permit shall be effective on June 30, 2008. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements in light of the expiration of the 2003 CGP on July 1, 2008. For further information contact Greg Schaner at (202) 564-0721 or schaner.greg@epa.gov.



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EPA TO DEEM DFW AREA IN ATTAINMENT FOR 1 HR OZONE STANDARD

On July 11th, the EPA proposed to determine that the Dallas/Fort Worth (DFW) 1-hour ozone nonattainment area is currently attaining the 1-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based upon certified ambient air monitoring data that show the area has monitored attainment of the 1-hour ozone NAAQS for the 2004-2006 monitoring period. In addition, quality controlled and quality assured ozone data for 2007 and 2008 that are available in the EPA Air Quality System database, but not yet certified, show this area continues to attain the 1-hour ozone NAAQS. If this proposed determination is made final, the requirements for this area to submit an attainment demonstration or 5% Increment of Progress (IOP) plan, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the 1-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1-hour ozone NAAQS. For further information contact Ms. Carrie Paige at (214) 665-6521 or paige.carrie@epa.gov.

EPA PROPOSES STEAM GENERATING RULE CHANGES

On June 12th, the EPA proposed to amend the new source performance standards for electric utility steam generating units and industrial-commercial-institutional steam generating units. On June 13, 2007, EPA promulgated amendments to the standards for steam generating units. Subsequently, EPA received a petition for reconsideration which it is granting to the extent specified in the proposed action. EPA is proposing to amend specific provisions in the standards for steam generating units, as amended, to resolve issues and questions raised by the petitioner for reconsideration, and to correct technical and editorial errors that have been identified since promulgation. In addition, EPA is requesting comment on the appropriate opacity standard for owners/operators of affected facilities using a particulate matter continuous emissions monitoring system to demonstrate compliance with the applicable PM limit. For further information contact Mr. Christian Fellner at (919) 541-5450 or fellner.christian@epa.gov.

EPA PROPOSED PORTLAND CEMENT KILN NSPS AMENDMENTS

On June 16th, the EPA proposed amendments to the current Standards of Performance for Portland Cement Plants. The proposed amendments include revisions to the emission limits for affected facilities which commence construction, modification, or reconstruction after June 16, 2008. The proposed amendments also include additional testing and monitoring requirements for affected sources. For further information contact Mr. Keith Barnett at (919) 541-5605 or e-mail address: barnett.keith@epa.gov.



EPA APPROVES PORTIONS OF DFW OZONE SIP

On August 15th, the EPA approved portions of revisions to the State Implementation Plan (SIP) submitted by the State of Texas on May 13, 2005, to meet the 5% Increment of Progress (IOP) requirement for the Dallas/Fort Worth (DFW) nonattainment area. EPA is not taking action on the 5% IOP plan in this rulemaking. EPA is approving the 2002 base year inventory for the DFW 8-hour ozone nonattainment area. EPA is also approving emissions reductions from energy efficiency measures implemented within the DFW 8-hour ozone nonattainment area, and revisions to 30 TAC, Chapter 117, Control of Air Pollution From Nitrogen Compounds, concerning stationary reciprocating internal combustion (IC) engines operating within the DFW 8-hour ozone nonattainment area. EPA is also approving into the SIP a federal consent decree and subsequent amendments thereto concerning the Alcoa Rockdale plant in Milam County. These actions result in emissions reductions in the DFW 8-hour ozone nonattainment area and are taken in accordance with section 110 and part D of the Clean Air Act (the Act) and EPA's regulations. This final rule is effective on September 15, 2008. For further information contact Ms. Carrie Paige at (214) 665-6521 or paige.carrie@epa.gov.

EPA APPROVES EL PASO AS ATTAINMENT FOR CO

On August 4th, the EPA proposed to approve the El Paso carbon monoxide (CO) redesignation request to attainment status. On February 13, 2008, the TCEQ submitted a State Implementation Plan (SIP) revision to request redesignation of the El Paso CO nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). This submittal also included a CO maintenance plan for the El Paso area and associated Motor Vehicle Emission Budgets (MVEBs). The maintenance plan was developed to ensure continued attainment of the CO NAAQS for a period of at least 10 years from the effective date of EPA approval of redesignation to attainment. This rule is effective October 3, 2008 without further notice, unless EPA receives relevant adverse comment. For further information contact Jeffrey Riley at (214) 665-8542 or riley.jeffrey@epa.gov.



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EPA APPROVES DFW OZONE SIP REVISION

On July 17th, the EPA approved a State Implementation Plan (SIP) revision submitted by the State of Texas which was submitted to EPA on December 13, 2006. The SIP revision extends requirements to reduce volatile organic compound (VOC) emissions in the Dallas-Fort Worth (DFW) area. Specifically, this revision extends requirements for control of VOC emissions to the five counties that were added to the DFW nonattainment area under the 1997 8-hour ozone standard designation: Ellis, Johnson, Kaufman, Parker, and Rockwall, and the affected VOC sources will be subject to the same emission limitation, control, monitoring, testing, recordkeeping, and recording requirements in effect in Collin, Dallas, Denton, and Tarrant counties. As a result of this action, these new VOC control requirements will be consistent for all nine counties in the DFW ozone nonattainment area. This revision meets statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is approving this revision pursuant to section 110, 116 and part D of the Federal Clean Air Act (CAA). For further information contact: Ellen Belk at (214) 665-2164 or belk.ellen@epa.gov.

EPA AMENDS PESTICIDE CONTAINER RULES

On June 11th, the EPA proposed to amend pesticide container and containment regulations, which were promulgated on August 16, 2006, to provide a 1-year extension of the labeling compliance date (from August 17, 2009 to August 17, 2010); to change the phrase "sold or distributed" to "released for shipment" as associated with all of the compliance dates; to provide for exceptions to the language requirements for some specific nonrefillable packages; to allow for waivers of certain label requirements for other refillable and nonrefillable containers on a case-by-case basis; and to correct typographical and other minor errors. In addition, the Agency is proposing to establish a definition of "released for shipment." These changes are being proposed in response to subsequent requests from stakeholders and based on further Agency consideration. For further information contact Nancy Fitz (703) 305-7385 or fitz.nancy@epa.gov.

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You can e-mail me at etorres@caldwelleng.com to receive our newsletter.



EPA PROPOSES TO APPROVE DFW 8 HR OZONE SIP REVISION

On July 14th, the EPA proposed to conditionally approve the 1997 8-hour ozone attainment demonstration State Implementation Plan (SIP) revision for the Dallas/Fort Worth moderate 8-hour ozone nonattainment area (DFW area) submitted by the State of Texas on May 30, 2007 and supplemented on April 23, 2008. The EPA is also proposing to approve the associated attainment Motor Vehicle Emissions Budgets (MVEBs), the Reasonably Available Control Measures (RACT) demonstration, and two local control measures relied upon in the attainment demonstration. The proposed approval of the attainment demonstration is conditioned on Texas adopting and submitting to EPA prior to March 2009, a complete SIP revision to limit the use of Discrete Emission Reduction Credits (DERCs), beginning in March 2009. Final conditional approval of the DFW 1997 8-hour ozone attainment demonstration SIP is contingent upon Texas adopting and submitting to EPA an approvable SIP revision for the attainment demonstration SIP's failure-to-attain contingency measures plan that meets section 172(c)(9) of the Clean Air Act (the Act). We also are proposing to fully approve the DFW area SIP as meeting the Reasonably Available Control Technology (RACT) requirement for volatile organic compounds (VOCs). EPA is proposing these actions in accordance with section 110 and part D of the Act and EPA's regulations. For further information contact Ms. Carrie Paige at (214) 665-6521 or paige.carrie@epa.gov

EPA PROPOSES TO APPROVE DFW NOX SIP RULES

On July 11th, the EPA proposed approval of rules for the control of NOX emissions into the Texas State Implementation Plan (SIP). The TCEQ submitted this revision to the SIP to us on May 30, 2007 (May 30, 2007 SIP revision). The May 30, 2007 SIP revision is a substantive and non-substantive recodification and reformatting of the NOX rules currently approved in the Texas SIP. This revision also includes a part of the NOX reductions needed for the Dallas/Forth Worth (D/FW) area to attain the Federal 8-hour ozone National Ambient Air Quality Standard (NAAQS). This rulemaking covers four separate actions. First, the EPA is proposing to approve the repeal of the current Chapter 117 rules that correspond to the non-substantive new rules and the revised and reformatted rules because the reformatted revision will better accommodate future additions/revisions to the rules. Second, the EPA is proposing to approve revisions to the Texas SIP that add new controls for the D/FW major NOX point sources. The EPA does not, however, taking action on the Texas rules for cement plants in this document. The rules for cement plants are being evaluated in a separate Federal Register document. Third, the EPA is proposing to approve revisions to the Texas SIP that add new controls for D/FW minor NOX sources. Fourth, the EPA is proposing to approve revisions to the Texas SIP that add new controls for combustion sources in East Texas. These NOX reductions will assist the D/FW area to attain the 8-hour ozone NAAQS. The EPA is proposing approval of these actions as meeting the requirements of section 110 and part D of the Federal Clean Air Act (the Act). For further information contact Mr. Alan Shar at (214) 665-6691 or shar.alan@epa.gov.



EPA ISSUES NEW NESHAP RULES

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Mercury Emissions from Mercury Cell Chlor-Alkali Plants	6/11/2008	Proposed	Following promulgation of the 2003 Mercury Cell MACT NESHAP, EPA received a petition to reconsider several aspects of the rule from the Natural Resources Defense Council (NRDC). In response, the EPA issued proposed amendments. The EPA is not proposing any amendments to the control and monitoring requirements for stack emissions of mercury established by the 2003 Mercury Cell MACT. The proposed rule would amend the requirements for cell room fugitive mercury emissions to require work practice standards for the cell rooms and to require instrumental monitoring of cell room fugitive mercury emissions. This proposed rule would also amend aspects of these work practice standards and would correct errors and inconsistencies in the 2003 Mercury Cell MACT that have been brought to EPA's attention.	Dr. Donna Lee Jones (919) 541-5251 jones.donnalee@epa.gov
Gasoline Dispensing Facilities	6/25/2008	Final	EPA is proposing to amend the Gasoline Dispensing Facilities NESHAP, which EPA promulgated on January 10, 2008, and amended on March 7, 2008. The January 10, 2008 rule established rules for the facilities in the gasoline distribution (Stage I) area source category. This action only affects area source gasoline dispensing facilities with a monthly throughput of 100,000 gallons of gasoline or more. In this action, EPA is proposing to amend the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions from gasoline storage tanks at gasoline dispensing facilities. Newly constructed or reconstructed gasoline dispensing facilities must comply with the new vapor balance system requirements as explained in the direct final rule.	Mr. Stephen Shedd (919) 541-5397, shedd.steve@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES NEW NESHAP RULES (CONTINUED)

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Plating and Polishing Operations	7/1/2008	Final	This final rule establishes emission standards in the form of management practices for new and existing tanks, thermal spraying equipment, and mechanical polishing equipment in certain plating and polishing processes. These final emission standards reflect EPA's determination regarding the generally achievable control technology (GACT) and/or management practices for the area source category.	Dr. Donna Lee Jones (919) 541-5251 jones.donnalee@epa.gov
Dry Cleaning Facilities	7/11/2008	Final rule; withdrawal; revision	EPA published a direct final rule and parallel proposal on April 1, 2008, to amend revisions to the national perchloroethylene air emission standards for dry cleaning facilities which EPA promulgated on July 27, 2006. Because the EPA received adverse comments during the comment period on the direct final rule and parallel proposal, the EPA is withdrawing the direct final rule, revising it to reflect comments and taking final action on the proposed rule.	Mr. Warren Johnson (919) 541-5124 Johnson.warren@epa.gov
Area Source Standards for Nine Metal Fabrication and Finishing Source Categories	7/23/2008	Final	This final rule establishes emission standards in the form of management practices and equipment standards for new and existing operations of dry abrasive blasting, machining, dry grinding and dry polishing with machines, spray painting and other spray coating, and welding operations. These standards reflect EPA's determination regarding the generally achievable control technology and/or management practices for the nine area source categories. This final rule is effective on July 23, 2008.	Dr. Donna Lee Jones (919) 541-5251 jones.donnalee@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES NEW NESHAP RULES (CONTINUED)

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Organic Liquids Distribution (Non-Gasoline)	7/17/2008	Final rule; partial withdrawal of direct final rule; amendments	EPA published proposed and direct final rule amendments on April 23, 2008, of the organic liquids distribution (non-gasoline), NESHAP which EPA promulgated on February 3, 2004, and amended on July 28, 2006. Because adverse comments were received on two of the April 23, 2008, proposed and direct final rule amendments, EPA is withdrawing the two corresponding regulatory amendments in the direct final rule before they become effective on July 22, 2008. The other regulatory amendments discussed in the direct final rule, for which the EPA did not receive any adverse comments, will become effective on July 22, 2008, as stated in that notice. In addition, in this action EPA is promulgating final rule amendments regarding the provisions that were commented upon and withdrawn, and responds to the adverse comments we received. Additionally the EPA is correcting typographical errors that have been identified in other sections of the rule text that were not addressed in the April 23, 2008, notices. As of July 17, 2008, EPA withdraws the direct final rule revision for 40 CFR 63.2358 (b)(1) and (c)(1), and Table 10 to Subpart EEEE of Part 63 entries 4. and 6., published on April 23, 2008 (73 FR 21825). The final rule amendments in this action are effective on July 17, 2008.	Mr. Stephen Shedd (919) 541-5397 shedd.steve@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES NEW NESHAP RULES (CONTINUED)

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Semiconductor Manufacturing	7/22/2008	Final	EPA issued amendments to establish a new maximum achievable control technology floor level of control for existing and new combined hazardous air pollutants process vent streams containing inorganic and organic hazardous air pollutants and clarify the emission requirements for process vents by adding definitions for organic, inorganic, and combined hazardous air pollutant process vent streams that contain both organic and inorganic hazardous air pollutants. This final rule is effective on July 22, 2008.	Mr. John Schaefer (919) 541-0296; Schaefer.john@epa.gov.
Miscellaneous Organic Chemical Manufacturing	8/6/2008	Proposed	On November 10, 2003, EPA promulgated NESHAP for miscellaneous organic chemical manufacturing. The rule is referred to as the miscellaneous organic NESHAP or the MON. The MON incorporates by reference the wastewater tank requirements in the NESHAP From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, which EPA promulgated on April 24, 1994, and which is referred to as the hazardous organic NESHAP or the HON. In this action EPA proposes to amend the HON, and thereby, the MON, by adding an equivalent means of emission limitation for wastewater tanks. This action also clarifies and corrects technical inconsistencies that have been discovered in the MON.	Mr. Randy McDonald (919) 541-5402; mcdonald.randy@epa.gov.

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



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Due to Hurricane Ike's landfall, Caldwell Engineering's Houston office phones are temporarily out of service. If you need immediate assistance from our office then please call Ernest Torres at 972-889-7200 (office) 469-235-3486 (mobile) or send me an email at etorres@caldwelleng.com. I'll make sure the message gets to the right individual.

With our Dallas office we are able to continue operations and provide quality service to our clients and will do so until power is restored to the Houston area. Our hearts go out to all the areas affected by Hurricane Ike. At this time our main concern is the safety and welfare of you and your loved ones and all our prayers are with those that were affected by the storm.



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