

### **EPA Reconsiders Certain Provisions of New NSR Rule**

On July 30, EPA announced that it is requesting public comment on several issues in the revised New Source review regulations promulgated December 31, 2002 and March 10, 2003. As discussed in previous issues of the *Environmental Cable*, these revisions were originally proposed in 1996 by the Clinton administration and included several controversial provisions that some said made the regulations too lax. In response to a number of petitions for reconsideration, EPA has identified six issues for public comment and possible revision. EPA is not accepting comment on any other part of the rule and is not granting a request for a stay of the final rule pending reconsideration of these issues.

The issues under reconsideration include:

1. **Analysis of Environmental Impact:** In November 2002, EPA released a document entitled “Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Rule” which concluded that the overall effect of the final rule would be a net benefit to the environment. This was based on, among other things, an assessment of the effects of the Plantwide Applicability Limits (PAL) and the Clean Unit test. The Report concluded that the PAL would result in ten of thousands of tons per year reductions in VOC emissions from just three industrial categories where the rule would be most used. The EPA is inviting comment on all aspects of the environmental impact of the final rule.
2. **Plantwide Applicability Limitations -** EPA is accepting comment on the inclusion of emission units on which construction begins during the period that is selected as the 24-month baseline period. In general the PAL level is established as the sum of the baseline actual emissions in any consecutive 24-month period in the preceding 10 years. The final rule required that the potential to emit (PTE) of units that were constructed during that baseline period to be included in the baseline calculation. Conversely, the emissions for units that are shut down during the baseline period are removed from the calculation. Alternatives that were considered include requiring the

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render legal or technical advice for specific applications and is not a substitute for the advice of legal counsel.

***NSR Reconsideration (cont'd from page 1)***

use of the immediately preceding 24-month interval in the calculation, using different 24-month periods for different emission units, or making no adjustments for start up or shutdown of emission units. EPA is requesting comments on all approaches to assessing emissions from units constructed during the baseline period.

3. Elimination of Synthetic Minor Limits - A synthetic minor limit is a limit that is included in a permit to reduce to PTE of the facility or emission unit to below a threshold level for some regulatory requirement. In the final NSR rule, the PAL was seen by EPA as a substitute for any unit-specific limits as emissions from those units would be incorporated into the PAL and hence become redundant. EPA is seeking comment on this approach.
4. Actual-to-Projected-Actual Test - EPA is asking for comments on the requirement that

post-change emissions be kept for either 5 or 10 years (depending on the nature of the change) only if there is a "reasonable possibility" that the project will result in a significant emissions increase.

5. Clean Units - The new NSR rule added flexibility to emission units utilizing state-of-the-art emission controls by allowing a new type of NSR applicability test to apply to these units for 10 years. Implicit in this rule was that if the area in which the unit was located was redesignated non-attainment during that 10 years, the Clean Unit designation would still apply. EPA is requesting comment on this approach.

For a complete discussion of these issues, use the QUIK-REPLY Form and/or visit the NSR web site at [www.epa.gov/nsr](http://www.epa.gov/nsr). EPA is accepting comment on these issues through August 29 and expects to take final action on all these issues by early November.

**EPA Proposes Changes to 112-r Risk Management Plans**

On July 31, EPA proposed amendments to the submission schedule, data requirements and format of the Risk Management Plans required by Section 112(r) of the Clean Air Act.

In these amendments, EPA proposes that facilities that have an accident resulting in death, injury, significant property damage, evacuation, or sheltering-in-place be required to update and re-submit their RMP within six months of the accident. Current requirements would allow up to five years before compiling an accident report, depending on when the RMP was last submitted. According to EPA, submitting the report within six months could result more complete accident reporting and in significant improvements in the accident prevention and reporting programs of facilities.

EPA is also proposing that facilities update their emergency contact information included in the RMP within one month of the change in the information. In addition, the e-mail address of emergency contacts would be a data element in the

plan. According to EPA, the RMPs have become a primary source of government information relating to homeland security and having current emergency contact information has become increasingly important. Changes in emergency contact information would not trigger a complete update and resubmission of the RMP.

In addition, EPA is proposing the addition of a mandatory data element for sources to identify the purpose of revisions to or re-submissions of previously filed RMPs, a mandatory data element to identify outside contractors that assisted in the preparation of the RMP, an expansion of the list of possible causes of accidental releases to include an uncontrolled/runaway reaction, and the elimination of a description of off-site consequence analysis in the executive summary of the RMP.

EPA is accepting comments on this proposal through September 15, 2003. For a copy of the proposal, use the QUIK-REPLY Form.

**DEC Finalizes Petroleum Bulk Storage Enforcement Package**

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DEC has finalized its comprehensive package establishing standardized Enforcement documents to address violations of the Petroleum Bulk Storage program. This package, which includes a penalty policy, sample Notice of Violation, and sample Order on Consent, was discussed in detail in the June/July issue of the *Environmental Cable*. For a copy of the final package, go to DEC's website at [www.dec.state.ny.us/website/ogc/pbsiep\\_final.pdf](http://www.dec.state.ny.us/website/ogc/pbsiep_final.pdf) (until September 8; after that date the URL is [www.dec.state.ny.us/website/ogc/egm/index.html](http://www.dec.state.ny.us/website/ogc/egm/index.html).)

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## CALENDAR OF EVENTS

**Aug. 24: Construction and Repair (C&R) workshop:** A workshop on the methods, results, and a software program that estimates the fate and transport of leachates from construction and repair (C&R) materials. At the workshop you will gain the benefit of federally-sponsored research into the environmental impact of both common C&R materials and recycled waste products. The workshop is being offered on Sunday, August 24th from 1 p.m. to 6 p.m. in Lake Placid, NY in conjunction with the International Conference on Ecology and Transportation (ICOET). If you have any questions, please contact Ted Ferragut toll-free at 866-475-3126.

**September 5:** Capital District Environmental Breakfast Club. 7:30 A.M., Holiday Inn Turf, Wolf Rd. Topic: New DOT Rules for Shipments of Hazardous Materials. Speaker: Vincent Mercandante, Research and Special Programs Administration, US DOT \$12 preregistered, \$14 day of event. For reservations email [bpopolizio@youngsommer.com](mailto:bpopolizio@youngsommer.com) or call 518/438-9907 ext. 240.

**Sept. 10:** Mohawk Valley Environmental Information Exchange Fall Social Canal Cruise: Little Falls to Lock 17 (Herkimer Home) and back, historical remarks provided by Jim Luz. Will pass through Lock 17, a 42' elevation change). A fine way to learn about the history of the canal and area. 3:30 - 5:30 pm, followed by: 6:00 PM- Dinner at Canal Side Inn. Total cost- \$40 per person, everything included, limited to 42 people. For reservations, call Charles Brown at 315-429-8551.

**Sept. 20 - 27:** In celebration of National Estuaries Day on Saturday, September 27, the New York State Department of Environmental Conservation's Hudson River Estuary Program is sponsoring a series of events from September 20-28. Special events will explore the Hudson River Estuary and the rich ecosystem it creates along its 153-mile length from New York City to Troy. For a free program booklet, call (800) 453-6665 or (845) 334-9574, or e-mail [ramble@highlandflings.com](mailto:ramble@highlandflings.com).

**Sept. 25:** 5:00-8:00 PM, Hudson River Environmental Society's Annual Awards Meeting, Hillside Manor, Kingston with presentation by Ed Radle, retired from NYS DEC, "NUMBERS, NUMBERS, NUMBERS", How to interpret the impacts of power plant cooling systems on HR fish and larval populations. Preregistration by 22 Sept. HRES members: \$30; Nonmember: \$45; Students: \$15. Pay \$50 for a membership and the Dinner Meeting. Check HRES web site: <http://www.hres.org> for program, form and directions, or contact: [stephenwilson2@cs.com](mailto:stephenwilson2@cs.com).

**Oct. 3:** Capital District Environmental Breakfast Club. Holiday Inn Turf, Wolf Rd. Topic: Stormwater Phase II: A Practical Look at the Implementation Process. Speaker: Dave Graves, NYSDOT \$12 preregistered, \$14 day of event. For reservations email [bpopolizio@youngsommer.com](mailto:bpopolizio@youngsommer.com) or call 518/438-9907 ext. 240.

# QUIK-REPLY FORM

For more information on the topics in this issue, fax or mail this form to: Vicki Schlierer, Regulatory Affairs Paralegal, Young, Sommer...LLC, Five Palisades Drive, Albany, NY 12205. Fax: (518) 438-9914.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, ST, Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Please send the following:

NSR Issues for Reconsideration

Proposed Changes to RMP

Reservations for the Capital District Environmental Breakfast Club, Holiday Inn Turf, Wolf Road, Colonie, NY **September 5, 2003**

\_\_\_\_\_ Registration (includes full breakfast buffet) \$12.00

\_\_\_\_\_ Binder update(includes Federal Register notices) \$ 5.00

Please make your reservation no later than **September 2, 2003**. Fax your reservation to 518/438-9914; call betsy Popolizio at 518/438-9907 ext. 240; or email [bpopolizio@youngsommer.com](mailto:bpopolizio@youngsommer.com) Cancellations will be accepted until September 2. No refunds or credits given after that time. To help us plan, please make a reservation. **The registration fee will be \$14.00 for walk-ins.**