



ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

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Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
A&R CLIMATE CHANGE			
FEDERAL Reconsideration of New Source Performance Standards for Oil and Natural Gas Sector 40 CFR Part 60 83 Fed. Reg. 52056 (Oct. 15, 2018)	<p>EPA proposed changes to the rules limiting emissions of volatile organic compounds (VOCs) and methane—a greenhouse gas (GHG)—from certain oil and natural gas production, transmission and distribution sources. The rules, which were adopted in 2016, establish standards for new, modified and reconstructed oil and natural gas sources covering a broad range of equipment and processes. With the recent rulemaking, EPA proposed amendments and clarifications in response to petitions for reconsideration of these issues as well as various technical and other corrections designed to further clarify the rule.</p> <ul style="list-style-type: none"> • <i>Fugitive emissions requirements.</i> EPA proposed several revisions to the rules for collecting fugitive emissions, including reducing the frequency of monitoring required to detect leaks and other changes. Among other things, EPA proposed to reduce monitoring at low production wells from twice a year to every two years and from twice a year to annual for most other wells. With respect to compressor stations, EPA proposed to change monitoring frequency from quarterly to semiannually or annually. EPA also is seeking comment on whether to extend the 60-day time for conducting initial monitoring surveys of wells and compressor stations as well as the schedule for repairing leaks. The proposed amendments also would allow owners/operators to meet certain existing state requirements in lieu of compliance with EPA’s fugitive emission requirements. • <i>Standards for pneumatic pumps at well sites.</i> EPA proposed to amend several aspects of the requirements for pneumatic pumps, including expanding the circumstances under which owners/operators of pumps can argue that it is technically infeasible to link pumps to a control device. • <i>Alternative means of emission limitations (AMELs).</i> In response to requests from industry, EPA proposed to streamline the process of requesting AMELs, including clarifying that an individual AMEL application may include the same technology at multiple sites and allowing owners/operators to join with manufacturers, vendors or trade associations to apply for an AMEL that incorporates emerging technologies. <p>The proposed rule can be found in the October 15, 2018 Federal Register at: www.govinfo.gov.</p>	<p>The rules are primarily of interest to entities engaged in oil and natural gas production, transmission and distribution.</p> <p>The Trump administration EPA has taken several steps to roll back Obama era rules limiting emissions of GHGs from sources in the oil and natural gas sector, including withdrawing a request for information on methane emissions from existing wells and thus abandoning efforts to develop emission guidelines for existing oil and natural gas production sources. EPA also has taken steps to roll back GHG-related emission standards for wells located on federal land.</p>	<p>EPA is accepting comments on the proposed rule until December 17, 2018.</p>

Citation	Summary	Implications	Schedule/Notes
CHEMICAL			
FEDERAL TSCA Reform Guidance <i>A Working Approach for Identifying Potential Candidate Chemicals for Prioritization; Notice of Availability of Public Dockets for Chemicals</i> 83 Fed. Reg. 50366 (Oct. 5, 2018)	<p>EPA issued draft guidance describing its proposed approach to identifying existing chemicals as potential candidates for risk assessment under the 2016 revisions to the Toxic Substances Control Act (TSCA). While the original TSCA statute focused on assessing chemicals before they entered the marketplace, the 2016 reforms require EPA to systematically prioritize and assess existing chemicals. In July 2017, EPA adopted regulations establishing a basic process and schedule for conducting the review. EPA’s recent guidance—entitled <i>A Working Approach for Identifying Potential Candidate Chemicals for Prioritization</i>—explains how EPA will fulfill its obligation to identify the 20 high priority chemical substances required to undergo risk evaluation, at least 50% of which must come from the 2014 update to the TSCA Work Plan, which contains 73 chemicals not currently undergoing TSCA review. In deciding which chemicals to prioritize, EPA will consider three factors: overall agency priorities (chemical/chemical groups that are priorities elsewhere in EPA); quantity and quality of information; and work load (e.g., focusing on chemicals that share characteristics with the first 10 chemicals undergoing risk evaluation or selecting categories of chemicals rather than a single chemical compound for prioritization). In the recent notice, EPA also announced that it is opening dockets on each of the 73 chemicals identified in EPA’s 2014 Work Plan update that are not currently undergoing review and an additional general docket for the public to suggest chemicals EPA should prioritize for risk evaluation.</p> <p>Long term, EPA is proposing to sort chemicals that are currently in the TSCA inventory into “bins” that can be used to inform multiple activities and priorities throughout EPA, including completing TSCA chemical risk assessments. Chemicals will be sorted based on their total score in relation to five components: human hazard-to-exposure ratio, genotoxicity, ecological hazard, susceptible population, and persistence/bioaccumulation. The guidance explains how each score component is calculated and addresses the role of information availability in the “binning” process.</p> <p>The notice announcing the various prioritization efforts can be found in the October 5, 2018 Federal Register at www.govinfo.gov.</p>	<p>The rules are potentially of interest to companies that manufacture, import, process, distribute, use or dispose of chemicals. Under the amended TSCA statute, after selecting a chemical for study EPA has approximately one year to decide whether to conduct a risk evaluation and three years to complete the evaluation and decide whether the chemical presents an unreasonable risk to humans and/or the environment. If EPA determines that a particular substance poses an unreasonable risk, it must mitigate that risk within two years. The prioritization rule establishes the criteria and timeframes for identifying high priority chemicals that require a risk evaluation. The draft guidance provides insight into how EPA plans to select chemicals for prioritization (i.e., for a determination whether they are high priority chemical substances that require a formal risk evaluation or low-priority chemicals that do not require further review).</p>	<p>EPA is accepting comments on the draft memorandum outlining its prioritization strategy until November 15, 2018. The general docket and each of the 73 chemical-specific dockets for collecting information on chemicals for possible risk evaluation will be open until December 1, 2019.</p>

Other Recent Developments (Final)

CHEMICAL

FEDERAL: EPA set user fees for administration of TSCA as required by recent amendments to the TSCA statute. TSCA requires EPA to assess and regulate new chemicals before they enter the market, regulate existing chemicals, such as PCBs, that pose an unreasonable risk to health or the environment, and regulate the distribution and use of chemicals. Although the original TSCA statute included a limited fee program, the 2016 amendments require EPA to set fees that are designed to collect 25% of the Agency's costs to carry out work under Sections 4, 5, 6 and 14 of the Act. The money will be deposited in a separate TSCA Service Fee Fund and dedicated to payment of program administration costs. The fees will be levied primarily against chemical manufacturers who: are required to submit information by test rule, test order or enforceable consent agreement under TSCA Section 4; submit notification of or information related to intent to manufacture a new chemical or propose a significant new use of a chemical under TSCA Section 5; or manufacture or process a chemical that requires a risk evaluation under TSCA Section 6(b). In addition, in the case of manufacturer-requested risk evaluations, manufacturers must pay 100% of the costs (50% if the chemical is listed on the TSCA Work Plan). The fees must be reviewed and adjusted every three years to reflect inflation and ensure that they are sufficient to meet the 25% cost threshold. The rule addresses key aspects of the fee program, including who will be charged, fee calculation, method of payment, timing, refunds, and consequences of failure to pay. It also defines "small business concerns" for purposes of identifying businesses that are entitled to reduced fees. The final rule, which took effect October 18, 2018, can be found in the October 17, 2018 Federal Register at: www.govinfo.gov.

Implications: The rule is primarily of interest to chemical manufacturers and importers regulated under the TSCA program; it will cover TSCA fees for fiscal years 2019, 2020, and 2021.

OCCUPATIONAL SAFETY AND HEALTH

FEDERAL: The Occupational Safety and Health Administration (OSHA) issued a **notice implementing its *Site-Specific Targeting (SST) inspection program, using employer-submitted calendar year 2016 Form 300A data***. The SST program is OSHA's main site-specific programmed inspection initiative for non-construction workplaces with 20 or more employees. The program uses injury/illness data submitted by employers under 29 CFR 1904.41 to identify establishments for inspection. Prior to 2015, the SST program used injury and illness information collected under the former OSHA data initiative. Recently, however, OSHA amended its regulations to require certain employers to submit Form 300A, Summary of Work-Related Injuries and Illnesses. The notice describes OSHA's plan to use the data from this form to identify establishments with elevated injury/illness rates—together with a random sample of low injury rate facilities and facilities from this form that failed to provide the required Form 300A data—to establish a list of facilities that will be subject to inspection. The notice goes on to provide scheduling and inspection procedures, including how to record and track

inspections. In addition to the SST inspection program, OSHA implements national and local emphasis inspection programs to target high-risk hazards and industries. The current National Emphasis Programs focus on lead, ship-breaking, trenching/excavations, process safety management, hazardous machinery, hexavalent chromium, primary metal industries, and combustible dust. OSHA also conducts inspections following reported incidents and in response to employee complaints. The SST notice can be found on OSHA's website at: www.osha.gov/sites/default/files/enforcement/directives/18-01_CPL-02.pdf.

Implications: The notice is generally of interest to non-construction workplaces with 20 or more employees that are required to submit Form 300A to OSHA.

Other Recent Developments (Proposed)

AIR/CLIMATE CHANGE

FEDERAL: EPA is proposing to **amend the 2016 emission guidelines and compliance times (EG) for municipal solid waste (MSW) landfills** to reflect recent proposed changes to the rules governing implementation of EGs generally under the Clean Air Act's (CAA) § 111 new source performance standards (NSPS) program. Under CAA § 111(d), when EPA adopts a NSPS for new, reconstructed or modified sources in a particular source category that regulates both criteria and non-criteria air pollutants it must also adopt EGs governing existing sources in the same source category. States must then adopt plans explaining how they will implement the EGs; if no plan is adopted within specified time frames, EPA will adopt and implement a federal plan. The existing regulations implementing the EG program—set forth at 40 CFR Part 60, subpart B—were adopted many years ago and contain comparatively short time frames for review and approval of the necessary state/federal plans. Earlier this year, as part of its proposed Affordable Clean Energy (ACE) rule, EPA proposed major changes to these rules that would significantly extend plan review and approval periods. With the recent rulemaking, EPA is proposing to amend the 2016 EGs for MSW landfills to harmonize with the changes proposed under the ACE rule. EPA is accepting comments on the proposed changes until **December 14, 2018**; the rulemaking can be found in the October 30, 2018 Federal Register at: www.govinfo.gov.

Implications: The proposed rule is potentially of interest to owners/operators of landfills regulated under the 2016 MSW EGs.

WATER

FEDERAL: EPA requested nominations of chemical and microbial **contaminants that are not currently subject to national primary drinking water standards but may require regulation under the Safe Drinking Water Act (SDWA)**. The SDWA requires EPA to publish a Contaminant Candidate List (CCL) every five years that includes contaminants that are known or anticipated to be found in public water systems and may require regulation under the SDWA because they pose a potential public health concern. EPA issued its fourth CCL (CC4) in 2016; it included 97 chemicals or chemical groups and 12 microbial contaminants consisting of chemicals used in commerce, pesticides, biological toxins, disinfection byproducts, pharmaceuticals, and waterborne pathogens. Over the next few years,

EPA will evaluate each of the CC4 contaminants further to determine if there is sufficient data to meet the regulatory determination criteria set forth in the SDWA; if yes, EPA will decide whether to add the contaminant to the list of pollutants potentially subject to SDWA standards. EPA must make regulatory determinations on at least five CCL contaminants every five years. With the recent notice, EPA is seeking nominations from the public for contaminants to be considered for the fifth CCL (CCL 5). The nominator should include the following information about each chemical nominated: identifying information (name, CAS number, common name(s)); data supporting the conclusion that the chemical is known or anticipated to occur in public water systems; and data supporting conclusion that the contaminant may require regulation (e.g., evidence of adverse health effects on general public or particular subgroup). EPA is accepting nominations until **December 4, 2018**; the notice can be found in the October 5, 2018 Federal Register at: www.govinfo.gov.

Implications: The CCL nomination process could eventually lead to the establishment of primary drinking water standards and monitoring requirements for one or more chemical or microbial contaminants.

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

November 15, 2018: Deadline for submitting comments on EPA's proposal to rescind portion of 2016 refrigerant management rule applying leak detection and repair requirements to substitute refrigerants. See the October 1, 2018 Federal Register at www.govinfo.gov for details.

November 15, 2018: Deadline for submitting comments on EPA's draft document entitled *A Working Approach for Identifying Potential Candidate Chemicals for Prioritization*. Notice of the draft document and other developments relating to prioritization of chemicals for review under TSCA can be found in the October 5, 2018 Federal Register at www.govinfo.gov.

December 4, 2018: Deadline for submitting comments on EPA's request for nominations of chemicals/microbials for inclusion on the fifth drinking water CCL list. See the October 5, 2018 Federal Register at www.govinfo.gov for details.

December 14, 2018: Deadline for submitted comments on EPA's proposal to modify the deadlines for completing the CAA § 111(d) emission guidelines planning process for municipal solid waste landfills. See the October 30, 2018 Federal Register at www.govinfo.gov for details.

December 17, 2018: Deadline for submitting comments on EPA's proposed revisions to the NSPS for sources in the oil and natural gas sector. See the October 15, 2018 Federal Register at www.govinfo.gov for details.