



## IRWIN Regulatory Newsletter – December 2018

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  - J. Andrew Irwin moderated one training session

FOR MORE INFORMATION SEE BELOW OR CALL US AT 508-653-8007

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### 1. FEDERAL: Upcoming Compliance Deadline for Ozone Depleting Substances

EPA has an upcoming compliance deadline of **January 1, 2019** for its amended work practice standards for owners of appliances containing refrigerants.

- The allowable leak rates for large appliances (more than 50 pounds of refrigerant per circuit) have been lowered, and leak rate calculations will need to be documented.
- Facilities will be required to inspect large appliances for leaks on a periodic basis following a leak repair, and to submit a report to EPA if an appliance leaks twice in a year.
- Recordkeeping provisions were added for servicing and disposal of appliances.

Existing EPA regulations require technicians to be licensed in order to service appliances, but the rule change did not include a refresher training requirement for technicians who were already licensed. *Be sure to check with your HVAC technician to make sure they have heard about the new requirements!*

The rule change will become applicable to Class I and Class II refrigerants beginning January 2019. Extension of the rule to substitute refrigerants has been delayed by a court stay and may be rescinded altogether, although some states have indicated plans to regulate substitute refrigerants at the state level if EPA does not.

<https://www.epa.gov/section608>

## **2. FEDERAL: Reversal of “Once In Always In” Policy for Major Sources of HAP**

EPA has reversed a policy known as the “Once In Always In” policy, which required major sources of Hazardous Air Pollutants (i.e., sources with emissions exceeding 10 tons per year of single HAP or 25 tons per year of aggregated HAP) to continue to be subject to NESHAP standards and Title V permitting even if they reduce their emissions below major source applicability standards. Under EPA’s revised policy, major sources of HAP who implement process changes or enforceable permit limits reducing their emissions below major source applicability standards will now become regulated as area sources (i.e., non-major sources).

At the state level, MassDEP and RIDEM have each indicated their willingness to recognize the reversal of the Once In Always In policy and to discuss non-major source permitting strategies with sources potentially affected by the policy change.

<https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean>

## **3. FEDERAL: Revised Clean Air Act Interpretations Available**

EPA has released several new and proposed guidance documents for facilities complying with Clean Air Act permitting and the New Source Review program.

- A revised interpretation of “ambient air” has been proposed for facilities required to model ambient air impacts, which would no longer necessarily require a fence or physical barrier to preclude public access for locations excluded from ambient air modeling. Comments on the draft are being accepted until **December 21, 2018**.
- A revised interpretation of “adjacent” has been proposed for evaluating what comprises a stationary source under the Clean Air Act, which would consider only physical proximity and not “functional interrelatedness” which has been used as a criteria in the past.
- New guidance memos regarding project emissions accounting, “major modification” applicability under the NSR program, and Significant Impact Levels.

<https://www.epa.gov/nsr>

#### **4. FEDERAL: New Effective Date for Risk Management Planning Amendments**

EPA has announced that its recent amendment to the Risk Management Program regulations (40 CFR 68) is now effective as of **December 3, 2018**. The RMP regulation covers chemical accident prevention under the Clean Air Act, and requires risk management planning for facilities with processes that contain listed toxic or flammable chemicals in quantities exceeding applicable thresholds. The rule change affects several aspects of the RMP regulation including Process Hazard Analyses and inherently safer technology assessments, emergency response planning, root cause analyses and audits following a release or near miss, and communication with the public. Regulated facilities must now begin complying with the amended RMP rule, which has a schedule of compliance dates ranging from 2018 to 2022.

<https://www.epa.gov/rmp>

#### **5. FEDERAL: e-Manifest System Now Available**

EPA has announced that the e-Manifest system is now available for electronic submittal of hazardous waste manifests. The system is used by hazardous waste TSDF's to submit copies of manifests for hazardous waste shipments that they receive. Generators can access e-Manifest and view manifests to confirm that their waste shipments have been received, and make corrections if needed. In order to implement the e-Manifest system EPA is transitioning from a six-part manifest form to a five-part form, where Copy 5 will be the Generator's Initial Copy, Copy 2 will be the Designated Facility to Generator copy, and Copy 1 will be the Designated Facility to EPA's E-Manifest System copy.

MassDEP has also issued state-specific guidance regarding the e-Manifest system, which covers topics such as registration for Very Small Quantity Generators and manifesting of spill cleanup waste. MassDEP has also indicated that generators will no longer be required to mail MassDEP a photocopy of the Designated Facility to Generator manifest copy for out of state waste shipments.

<https://www.epa.gov/e-manifest>

<https://www.mass.gov/guides/hazardous-waste-generation-generators#hazardous-waste-manifest-requirements>

#### **6. FEDERAL: Proposed Revised Definition of Waters of the United States**

EPA has proposed to revise the definition of "Waters of the United States" (WOTUS) for the purpose of various programs under the Clean Water Act such as National Pollutant Discharge Elimination System (NPDES) regulations for direct and indirect discharges, accidental discharge reporting under CERCLA, and the Spill Prevention, Control, and Countermeasures (SPCC) regulation for facilities storing oil. The regulatory definition was previously amended in 2015, but the amendment was stayed by a court decision so the previous definition was reinstated.

EPA is now proposing a new definition for WOTUS that includes navigable waters; tributaries that contribute perennial or intermittent flow to navigable waters; ditches, lakes and ponds that meet certain criteria such as functioning as a navigable water, contributing flow to a navigable water, or being flooded by a navigable water in a typical year; impoundments of otherwise jurisdictional waters; and adjacent wetlands. The proposed definition also describes several exclusions including features that flow only in response to precipitation; groundwater; prior converted cropland;

artificially irrigated areas; artificial lakes and ponds; stormwater control features; wastewater recycling structures; and waste treatment systems. Comments on the proposed revision will be accepted until **February 2019** (60 days after Federal Register publication).

<https://www.epa.gov/wotus-rule>

## **7. MASSACHUSETTS: Air Emissions Reporting Deadlines Extended**

MassDEP has revised its schedule for the Air Source Registration and Greenhouse Gas reporting programs, since online reporting was temporarily unavailable while the forms were being reformatted in eDEP. Access to the forms in eDEP is now available, and MassDEP has now received annual source registrations and greenhouse gas reports for reporting year 2016 for most sources, although some facilities have received extensions until early 2019 for reports that were affected by bugs in the new eDEP forms. Reporting deadlines for reporting years 2017 and 2018 are expected to be announced once data collection is completed for 2016.

<https://www.mass.gov/guides/massdep-source-registration-greenhouse-gas-reporting>

## **8. MASSACHUSETTS: Regulatory Changes for Air Pollution Control**

MassDEP has made a significant amendment to the state air pollution control regulations at 310 CMR 7.00. The proposed revision includes a variety of changes including:

- Emergency engines under Permit by Rule or ERP regulations are no longer limited to 300 hours per year of operation, provided that the engine operation is restricted to emergency situations and maintenance and testing and run hour records are kept. MassDEP guidance indicates that 500 hours per year can generally be assumed as a maximum for the purposes of estimating potential emissions or conducting air dispersion modeling. Facilities with a permit limit of 300 hours per year may apply for an administrative amendment to remove the limit.
- Facilities claiming permit exemption under the *de minimis* exemption of 1 ton per year can now demonstrate eligibility based on records of actual emissions.
- Facilities installing permit exempt air pollution control devices under 310 CMR 7.02(2)(b)1. are no longer required to notify MassDEP 60 days in advance. The 30 day advance notice for replacement of existing devices under 310 CMR 7.02(2)(b)2. still applies.
- A 30-day public comment period is now required for approval of Comprehensive Plan Approval applications.
- The Environmental Results Program (ERP) certification for non-emergency engines must now be submitted 30 days prior to startup instead of 60 days following startup. Also, engine owners now have the option of applying for a Comprehensive Plan Approval instead of complying with ERP or Permit by Rule regulations.
- Plan Approval thresholds were added for greenhouse gases. However, greenhouse gases were removed from the Operating Permit (Title V) permit program.
- Changes to the listing of exempt VOCs, insignificant activities, and Prevention of Significant Deterioration permit modifications for consistency with federal regulations.
- Changes to source registration applicability particularly for small combustion sources.
- The deadline for submitting air source registrations was moved forward to April 1 for triennial filers. The deadlines for annual filers were not changed.

- Reasonably Available Control Technology (RACT) standards for VOC would be added for industrial cleaning solvents and fiberglass boat manufacturing, and RACT and ERP requirements would be updated for a variety of other source categories.
- Updates to NO<sub>x</sub> RACT requirements and budget program provisions.

<https://www.mass.gov/regulations/310-CMR-700-air-pollution-control>

## 9. MASSACHUSETTS: Adoption of 2015 Fire Code

Massachusetts DFS has updated the Massachusetts Fire Code (527 CMR 1.00) to reference the 2015 edition of the NFPA Fire Code (NFPA 1). The 2012 edition was referenced previously.

The Massachusetts Fire Code also includes a listing of state-specific amendments to NFPA 1 and this list has been updated as well. Proposed changes to the state-specific amendments include:

- The chapter of NFPA 1 on handling of laboratory chemicals is now included in the fire code.
- Amendments were added regarding the permitting process for hot work.
- Recordkeeping and documentation requirements were added for facilities that conduct processing of hazardous materials. These requirements were previously part of 527 CMR 33.00 but were inadvertently omitted from the fire code when NFPA 1-2012 was adopted.

<https://www.mass.gov/regulations/527-CMR-100-massachusetts-comprehensive-fire-safety-code>

## 10. RHODE ISLAND: Draft Stormwater General Permit Available

RIDEM has issued a draft 2019 Multi-Sector General Permit (MSGP) for industrial stormwater discharges in Rhode Island. The MSGP covers certain stormwater discharges from industrial activities that are exposed to stormwater. Facilities covered under the MSGP are required to develop a Stormwater Management Plan (SWMP), implement best management practices, and comply with monitoring and inspection requirements. Changes being proposed from the 2013 MSGP include:

- Total Suspended Solids (TSS) and Oil and Grease would be added as benchmark monitoring requirements for all permittees regardless of industrial sector.
- The frequency of benchmark monitoring, impaired waters monitoring, and effluent limitation monitoring would each be increased to four times per year.
- A framework would be added for implementing incremental reviews and corrective actions for facilities whose monitoring results exceed benchmark values during consecutive years.
- Consolidation of quarterly and annual inspection schedules.
- Reports would need to be submitted electronically using the NPDES eReporting Tool (NeT) and NetDMR systems. Additionally, Stormwater Management Plans would need to be submitted electronically or made publicly available as part of the Notice of Intent process.

The previous MSGP was issued in 2013 and expired in 2018. Facilities that were previously covered under the 2013 MSGP, or that would like to be covered as a new discharge, will need to submit a Notice of Intent (NOI) once the 2019 MSGP is finalized. Comments on the proposed draft are being accepted until **January 11, 2019**.

<http://www.dem.ri.gov/programs/water/permits/ripdes/>



508-653-8007

## 11. IRWIN News: MCTA Air Permitting and Compliance Event

The Massachusetts Chemistry & Technology Alliance held its Air Permitting and Compliance training event on November 29 in Boston. IRWIN Engineers president J. Andrew Irwin was the session moderator for a training session covering BACT Case Studies. Other topics at the training event included recent MassDEP and EPA air regulatory changes, online permitting and reporting, and air modeling.

<http://www.masscta.org/mcta-events.html>

### FEATURE PROJECT

FOR MORE INFORMATION CALL US AT 508-653-8007

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