

## Regulatory Update - May 2018



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### 2018 Deadlines

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5/15/2018	EPA	RCRA	Public Comments on Adding Hazardous Waste Aerosol Cans to RCRA Universal Waste Program	6	7	8	9	10	11	12
5/25/2018	EPA	NESHAP/NSPS	Public Comments on NESHAP Refinery MACT 1 and 2 and NSPS Subparts J and Ja Proposed Amendments	13	14	15	16	17	18	19
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Media	Agency	Topic	Rule	Reference	Link	Rule State	Update	Latest Action(s)
Air	EPA	NAAQS	40 CFR 50	Back-to-Basics Process for Reviewing National Ambient Air Quality Standards	<a href="#">Link</a>	NAAQS Policy Guidance	<p>On May 9, 2018, the EPA Administrator (Mr. Scott Pruitt) signed a memorandum describing a "back to basics" process for reviewing NAAQS. Mr. Pruitt stated that the memo assures that EPA and its independent science advisors take a transparent, efficient, and timely approach to reviewing NAAQS. The memo sets for five principles to be used during the review process:</p> <ol style="list-style-type: none"> <li>(1) Meet statutory deadlines;</li> <li>(2) Address all CAA provisions for NAAQS reviews;</li> <li>(3) Streamline and standardize the process for development and review of key policy-relevant information;</li> <li>(4) Differentiate science and policy judgements in the NAAQS review process; and</li> <li>(5) Issue timely implementation regulations and guidance.</li> </ol> <p>The memo commits the EPA to begin the next review of the ground-level ozone NAAQS so it can finalize any revisions by the October 2020 deadline under the CAA. It also requires that the agency complete its review of the particulate matter NAAQS by December 2020.</p>	Ozone NAAQS designations to be completed by October 2020 and PM NAAQS designations to be completed by December 2020.
Air	EPA	NSPS	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources	83 FR 10628 3/12/2018	<a href="#">Link</a>	Final Rule	The EPA finalized amendments to two narrow provisions of the requirements for the collection of fugitive emission components at well sites and compressor stations. The change removes the requirement for completion of delayed repair during unscheduled or emergency vent blowdowns and provides separate monitoring requirements for well sites located on the Alaskan North Slope.	The final rule became effective on March 12, 2018.
Air	EPA	NESHAP/NSPS	Refinery MACT 1 and 2; NSPS Subparts J and Ja	83 FR 15460 4/10/2018	<a href="#">Link</a>	Proposed Rule	The EPA has proposed amendments to the NESHAP Refinery MACT 1 and Refinery MACT 2 regulations to clarify the requirements of these rules and to make technical corrections and minor revisions to requirements for work practice standards, recordkeeping and reporting. The EPA has also proposed technical corrections for NSPS Subparts J and Ja. Please refer to the Federal Register for a comprehensive list of the proposed technical corrections and minor revisions.	Comments on the proposed rule must be received on or before May 25, 2018.
Air	EPA	NESHAP	EPA Method 301	83 FR 12118 March 20, 2018	<a href="#">Link</a>	Final Rule	The EPA has published editorial and technical revisions to Method 301 "Field Validation of Pollutant Measurement Methods from Various Waste Media" to correct and update the method. In addition, the EPA is clarifying the regulatory applicability of Method 301 as well as its suitability for use with other regulations. The revisions include ruggedness testing for validation of test methods intended for application at multiple sources, determination of the limit of detection for all method validations, incorporating procedures for determining the limit of detection, revising the sampling requirements for the method comparison procedure, adding storage and sampling procedures for sorbent sampling systems, and clarifying acceptable statistical results for candidate test methods. The EPA is also adding equations to clarify calculation of the correction factor, standard deviation, estimated variance of a validated test method, standard deviation of differences, and t-statistic for all validation approaches. Changes made to the Method 301 field validation protocol under this action apply only to methods submitted to the EPA for approval after the effective date of this final rule.	The final rule became effective on March 20, 2018.
Air	EPA	Major/Area Source Classification	Air Permitting	83 FR 5543 2/8/2018	<a href="#">Link</a>	Issuance and withdrawal of guidance memorandums.	<p>The EPA has notified the public that it has issued the guidance memorandum titled "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act". The EPA is also withdrawing the memorandum titled "Potential to Emit for MACT Standards—Guidance on Timing Issues."</p> <p>The guidance memorandum can be viewed electronically at: <a href="https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean">https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean</a>.</p>	The issuance of the new guidance memorandum, and the withdrawal of the old memorandum, became effective on February 8, 2018.

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Waste	EPA	RCRA - Universal Waste	40 CFR Parts 260, 261, 264, 265, 268, 270, and 273	83 FR 11654 3/16/2018	<a href="#">Link</a>	Proposed Rule	The EPA is proposing to add hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (RCRA) regulations. This proposed change, once finalized, would benefit the wide variety of establishments generating and managing hazardous waste aerosol cans, including the retail sector, by providing a clear, protective system for managing discarded aerosol cans. The streamlined universal waste regulations are expected to ease regulatory burdens on facilities that discard hazardous waste aerosol cans; promote the collection and recycling of these cans; and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.	Comments on the proposed rule must be received on or before May 15, 2018.
Water	EPA	Clean Water	40 CFR 110 (and others)	83 FR 5201 2/6/2018  82 FR 55542 11/22/2017	<a href="#">Link</a>	Final Rule	The EPA and the Department of the Army have modified the applicability date to the "Clean Water Rule: Definition of "Waters of the United States"" to two years from the date of this final action (February 6, 2020). On October 9, 2015, the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court. On January 22, 2018, the Supreme Court held that the courts of appeals do not have original jurisdiction to review challenges to the 2015 Rule. With this final rule, the agencies intend to maintain the status quo by adding an applicability date to the 2015 Rule and thus providing continuity and regulatory certainty for regulated entities, the States and Tribes, and the public. Also, the 2015 rule is currently being reviewed per the instructions of Executive Order 13778 titled "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule" which may result in the rule being rescinded or replaced in the future.	This rule became effective on February 6, 2018.
Air	EPA/TCEQ	NESHAP	40 CFR 63	83 FR 1559 1/12/2018	<a href="#">Link</a>	Final Rule	TCEQ has submitted updated regulations for receiving delegation of the EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by the EPA, as amended between April 24, 2013 and August 3, 2016. The EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ. Please refer to the Federal Register for a comprehensive list of delegated NESHAPs.	This rule is effective on March 13, 2018 unless the EPA receives relevant adverse comment by February 12, 2018.
Air	EPA	NAAQS - SO2	40 CFR 81	83 FR 1098 1/9/2018	<a href="#">Link</a>	Final Rule	The EPA has established the initial air quality designations for certain areas in the U.S. for the 2010 sulfur dioxide (SO2) primary National Ambient Air Quality Standard (NAAQS). The Environmental Protection Agency (EPA) is designating the areas as either Nonattainment, Attainment/Unclassifiable, or Unclassifiable. The Clean Air Act (CAA or Act) directs areas designated Nonattainment by this rule to undertake certain planning and pollution control activities to attain the SO2 NAAQS as expeditiously as practicable. This is the third of four expected sets of actions to designate areas of the U.S. for the 2010 SO2 NAAQS. Please refer to the Federal Register for a complete list of the designations.	The final rule is effective on April 9, 2018.
Air	EPA	NAAQS - Ozone	40 CFR 81	83 FR 651 1/5/2018  82 FR 54232 11/16/2017	<a href="#">Link</a>	Final Rule	The EPA has established initial air quality designations for most areas in the United States (including most areas of Indian country) for the 2015 primary and secondary national ambient air quality standards (NAAQS) for ozone. The EPA has posted responses to certain state and tribal area designation which includes its intended designations for the affected areas and is requesting public comment.	Public comments on the presented information were due by 2/5/2018. The EPA intends to make final designation determinations for the areas of the country addressed by these responses no earlier than 120 days from the date the EPA notified states and tribes of the agency's intended designations.

Agency Semi-Annual Agenda Items (Potential Future Rulemaking) <https://resources.regulations.gov/public/custom/sp/navigation/main.jsp>

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					<a href="#">Link</a>		The Government's Unified Semi-Annual Agenda Spring 2018 issue was issued in May 2018 and is reflected here.	

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Water	EPA	NPDES Pollutant Testing Procedures	40 CFR 136		<a href="#">Link</a>	Proposed Rule Stage	This regulatory action will amend "Guidelines Establishing Test Procedures for the Analysis of Pollutants" at 40 CFR Part 136 to approve test procedures (analytical methods) for use by testing laboratories and others for water monitoring. These test procedures must be used to implement the NPDES program unless EPA has approved the use of an alternate procedure. This action approves new and revised versions of testing procedures approved for analysis and sampling under the CWA. The rule is expected to include primarily method revisions from voluntary consensus standard bodies and Alternate Testing Procedures that are comparable to the current methods. The EPA believes these changes will have a positive impact on NPDES permittees by increasing method flexibility, thereby allowing entities to reduce costs by choosing more cost-effective methods.	NPRM 12/00/2018 Final 12/00/2019
Water	EPA	NPDES Program	40 CFR 122-125	81 FR 31343 81 FR 41507	<a href="#">Link</a>	Final Rule Stage	The EPA is developing a final rule to update specific elements of the existing National Pollutant Discharge Elimination System (NPDES) regulations. The rule will make targeted revisions to outdated application, permitting, monitoring and reporting requirements in order to eliminate inconsistencies between regulations and application forms, improve permit documentation and transparency, and clarify existing regulations. EPA is finalizing these items in two separate but related regulatory actions. This rule will address a subset of the items EPA proposed in 2016. EPA will finalize another subset of items which require more time to address in a new regulatory action.	NPRM 05/18/2016 NPRM Comment Period Extended 06/27/2016 Final 12/00/2018
Air	EPA	RMP	40 CFR 68		<a href="#">Link</a>	Proposed Rule Stage	The EPA published in the Federal Register on January 13, 2017, a final rule to amend the Risk Management Program (RMP) regulations under the Clean Air Act. Prior to the rule becoming effective, the EPA is considering petitions for reconsideration of this final rule; planning to take comment on specific issues to be reconsidered, and considering possible regulatory actions to revise the RMP amendments.	NPRM 05/00/2018 Final 02/00/2019
Waste	EPA	RCRA - Hazardous Waste Determination Methods for Characteristically Ignitable Hazardous Waste	40 CFR 261		<a href="#">Link</a>	Proposed Rule Stage	The EPA is considering updating the flash point test methods for the determination of characteristically ignitable hazardous waste along with other minor changes. The currently required test methods refer to outdated standards developed by the American Society for Testing and Materials (ASTM standards) and require instrumentation that is no longer readily commercially available. In addition, the standards require the use of mercury thermometers. A proposed update to the flash point test methods will allow for the use of commercially available instrumentation and will no longer require mercury thermometers. The EPA is also considering removing the requirements for mercury thermometers from the SW-846 Compendium sampling methods. Also, the EPA may take comment on the alcohol exclusion for ignitable aqueous alcohols and whether a revision is necessary to improve existing waste management practices.	NPRM 08/00/2018
Water	EPA	Clean Water Act Hazardous Substances Spill Prevention	Undetermined		<a href="#">Link</a>	Proposed Rule Stage	As a result of a consent decree, the EPA is embarking on a rulemaking for the prevention of hazardous substance discharges under section 311(j)(1)(C) of the Clean Water Act (CWA). Section 311(j)(1)(C) reads, in part: "...as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations ... establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of ... hazardous substances from ... onshore facilities ... and to contain such discharges ..." The CWA hazardous substances and their associated reportable quantities (RQs) are identified in 40 CFR parts 116 and 117, respectively. The EPA will assess the consequences of hazardous substance discharges into the Nation's waters, and evaluate the costs and benefits of potential preventive regulatory requirements for facilities handling such substances.	NPRM 06/00/2018 Final 09/00/2019

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Air	EPA	NESHAP Residual Risk and Technology Review	40 CFR 63 Subpart YYYY 40 CFR 63 Subpart XX 40 CFR 63 Subpart YY 40 CFR 63 Subpart LLLLL 40 CFR 63 Subpart EEEE 40 CFR 63 Subpart FFFF		<a href="#">Link</a>	Proposed Rule Stage	This proposal will address the EPA's Residual Risk and Technology Review (RTR) of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for multiple subparts of 40 CFR 63. This action will implement the residual risk review requirements of CAA section 112(f)(2) and the technology review requirements of CAA section 112(d)(6). The statute directs the EPA to promulgate emission standards under CAA 112(f)(2) if such standards are required to provide an ample margin of safety to protect public health or to prevent, taking relevant factors into account, an adverse environmental effect. Any such standards are to be promulgated within 8 years after promulgation of MACT standards under CAA section 112(d). CAA section 112(d)(6) requires the EPA to review and revise the MACT standards as necessary, taking into account developments in practices, processes, and control technologies, no less often than every 8 years. Pursuant to a court order, the EPA is obligated to complete the final action for each of these regulations by March 13, 2020.	Final 03/13/2020
Air	EPA	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting	Undetermined		<a href="#">Link</a>	Proposed Rule Stage	Under the New Source Review (NSR) pre-construction permitting program, sources undergoing modifications need to determine whether their modification is considered a major modification and thus subject to NSR pre-construction permitting. A source owner determines if its source is undergoing a major modification under NSR, using a two-step applicability test. The first step is to determine if there is a "significant emission increase" of a regulated NSR pollutant from the proposed modification (Step 1), and the second step is to determine if there is a "significant net emission increase" of that pollutant (Step 2). In this action, the EPA is proposing the consideration of both emissions increases and decreases from a modification in Step 1 of the NSR major modification applicability test for all unit types (i.e., new, existing, and hybrid units). However, the specific details of the items under consideration have not yet been provided.	NPRM 09/00/2018
Air	EPA	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Aggregation	40 CFR 51.165 40 CFR 51.166 40 CFR 52.21		<a href="#">Link</a>	Final Rule Stage	Under the New Source Review (NSR) preconstruction permitting program, stationary sources undergoing modifications need to determine whether their physical or operational changes are a "major modification" based on the emissions increase that would result from the change. The term "project aggregation" refers to the grouping of multiple, related physical or operational changes at a facility into a single project, such that their emission increases or decreases would be combined for purposes of determining NSR applicability. In January 2009, the EPA issued an interpretive rule that required changes to be aggregated into a single project if they are "substantially related" and created a presumption against aggregating projects that occur 3 or more years apart. This 2009 rule is currently stayed and under reconsideration by EPA. This action will finalize the reconsideration proceeding of the rule.	NPRM 04/15/2010 NPRM Comment Period Extended 05/14/2010 Final Rule 05/18/2010 Final Rule 05/00/2018
Air	EPA	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources	40 CFR 60 Subpart OOOOa		<a href="#">Link</a>	Proposed Rule Stage	On June 3, 2016, the Environmental Protection Agency (EPA) finalized "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources" (2016 OOOOa rule). The EPA received five petitions for reconsideration on the 2016 OOOOa rule and nine petitions for judicial review. The EPA is proposing to address key policy issues raised in these petitions, including the regulation of greenhouse gases in this sector.	NPRM 07/00/2018 Final 01/00/2019
Air	EPA	LDAR Alternative Work Practice Standards	40 CFR 60, 61, 63 and 65		<a href="#">Link</a>	Proposed Rule Stage	On December 22, 2008, EPA published a voluntary alternative work practice for leak detection and repair using a newly developed technology, optical gas imaging. Since promulgation, advancements have been made in leak detection technologies that warrant examination of revisions to the alternative work practice. Additionally, the agency received a request for administrative reconsideration from American Petroleum Institute (API) on February 20, 2009. This package will address additional alternative work practices and the issues raised for reconsideration.	NPRM 11/00/2018 Final 11/00/2019

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Hazardous Chemicals	EPA	TSCA - Chemical Data Reporting Provisions	40 CFR 711		<a href="#">Link</a>	Proposed Rule Stage	The Chemical Data Reporting (CDR) rule, under section 8(a) of the Toxic Substances Control Act (TSCA), requires manufacturers (including importers) to provide the EPA with information, including processing and use information, on chemical substances that they manufacture (including import) above threshold production volumes. The information is collected every 4 years and the production volume threshold for reporting a chemical substance is generally 25,000 pounds for a specific reporting year. Before the next reporting period of 2020, the EPA will be revising the reporting requirements to better align with new statutory requirements resulting from TSCA as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act and to address submitters' feedback following the 2016 submission period and may consider reporting requirements for inorganic byproducts, and may include updates to TSCA sections 8(a)(1) and 8(a)(3) standards for determining the manufacturers and processors that may qualify as small manufacturers and processors.	NPRM 09/00/2018 09/00/2019
Hazardous Chemicals	EPA	Toxic Release Inventory	40 CFR 372		<a href="#">Link</a>	Proposed Rule Stage	The Toxics Use Reduction Institute (TURI) submitted a petition under section 313(e)(1) of the Emergency Planning and Community Right-to-Know Act (EPCRA) to add 25 chemicals to the EPCRA section 313 list of toxic chemicals subject to reporting under the Toxic Release Inventory (TRI). EPA is evaluating the 25 chemicals to determine if they meet the listing criteria of EPCRA section 313(d)(2). EPA intends to propose the addition of any of the 25 chemicals that meet the EPCRA section 313(d)(2) criteria and for which reports are expected to be filed. Chemicals added to the list would be subject to the TRI reporting requirements.	NPRM 01/00/2019 Final 01/00/2020
Hazardous Chemicals	EPA	"Protection in the Workplace" and "Hazard Communication Program"	40 CFR 720, 721, and 723		<a href="#">Link</a>	Final Rule Stage	EPA issued regulations in 1989 for the "Protection in the Workplace" (40 CFR 721.63) and "Hazard Communication Program" (40 CFR 721.72) components of the Significant New Uses of Chemical Substances regulations at 40 CFR 721. Where possible, these regulations are closely aligned with Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1200. OSHA issued a final rule on March 26, 2012, that aligns OSHA's Hazard Communication Standards with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). On July 28, 2016, EPA issued a rule proposing changes to the applicable Significant New Uses of Chemical Substances regulations at 40 CFR 721 to align EPA's regulations, where possible, with the final revisions to the OSHA Hazard Communications Standards (81 FR 49598).	NPRM 07/28/2016 NPRM Comment Period Extended 10/21/2016 Final Rule 09/00/2018
Air	EPA	Fuels Regulation Modernization	40 CFR 80		<a href="#">Link</a>	Proposed Rule Stage	This action is intended to streamline and modernize EPA's existing fuels regulations under 40 CFR part 80. The purpose of this effort is to update EPA's existing gasoline, diesel, and other fuels regulations to help reduce compliance costs for industry as well as EPA, while improving overall compliance assurance and maintaining environmental performance. In this action, EPA will streamline existing fuels regulations by deleting expired provisions, eliminating redundant compliance provisions (e.g., duplicative registration requirements that are required by every EPA fuels program), removing unnecessary and out-of-date requirements, and replacing them with a single set of provisions and definitions that will apply across all gasoline, diesel, and other fuels programs currently under 40 CFR part 80.	NPRM 01/00/19 Final 01/00/20