

Regulatory Update - February 4, 2018



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Early 2018 Deadlines (and selected others)			
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February-17						
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

Regulation Activity		
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Media	Agency	Topic	Rule	Reference	Link	Rule State	Update	Latest Action(s)
Air	EPA/TCEQ	NESHAP	40 CFR 63	83 FR 1559 1/12/2018	Link	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	Gasoline RVP Standards	40 CFR 80	82 FR 60886 12/26/2017	Link	Final Rule	The EPA took final action to approve an April 10, 2017 request from the Louisiana Department of Environmental Quality (LDEQ) to relax the Federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the following parishes: Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary. The EPA approved amendments to the regulations to allow the gasoline RVP standard for these 11 parishes to rise from 7.8 pounds per square inch (psi) to 9.0 psi. LDEQ has also requested that EPA relax gasoline volatility requirements for the 5-parish Baton Rouge area, and EPA will address that request in a separate rulemaking in the future.	This final rule became effective on January 25, 2018.
Air	EPA	RFS	40 CFR 80	82 FR 58486 12/12/2017	Link	Final Rule	The EPA has established the annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to gasoline and diesel transportation fuel produced or imported in the year 2018. Relying on statutory waiver authority that is available when projected cellulosic biofuel production volumes are less than the applicable volume specified in the statute, the EPA has established volume requirements for cellulosic biofuel, advanced biofuel, and total renewable fuel that are below the statutory volume targets. Refer to the list below for the 2018 volume targets along with the 2017 volume targets for comparison. - Cellulosic Biofuel: 7.0 billion gal for 2018 (5.5 billion gal for 2017) - Biomass-based Fuel: ≥1.0 billion gal for 2018 (≥1.0 billion gal for 2017) - Advanced Biofuel: 11.0 billion gal for 2018 (9.0 billion gal for 2017) - Renewable Fuel: 26.0 billion gal for 2018 (24.0 billion gal for 2017)	This final rule is effective on February 12, 2018.
Air	EPA	NAAQS - SO2	40 CFR 81	83 FR 1098 1/9/2018	Link	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	Link	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.

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Hazardous Chemicals	EPA	TRI	40 CFR 372	82 FR 60906 12/26/2017 82 FR 52674 11/14/2017 82 FR 39038 8/17/2017 82 FR 39101 8/17/2017	Link	Final Rule	In response to OMB's revisions to the NAICS codes effective January 1, 2017, EPA has amended 40 CFR part 372 to include the relevant 2017 NAICS codes for TRI reporting. EPA is also modifying the list of exceptions and limitations previously included in the CFR for the applicable NAICS codes for TRI reporting purposes. Under this action, TRI reporting requirements remain unchanged. However, due to the 2017 NAICS modifications, some facilities will need to modify their reported NAICS codes.	This final rule became effective on January 1, 2018.
Air	EPA	NSPS	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements	82 FR 51788 11/8/2017 81 FR 35824 6/3/2016 82 FR 27645 6/16/2017	Link Link	Notice of Data Availability for Proposed Rules	The EPA is providing additional information on several topics raised by stakeholders over its June 16, 2017 proposed rules to stay certain requirements in the Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources rule, and is soliciting comment on the information presented. Topic areas covered include the legal authority to issue a stay and the technological, resource, and economic challenges with implementing the fugitive emissions requirements, well site pneumatic pump standards, and the requirements for certification of closed vent systems by a professional engineer.	Public comments on the presented information were due by 12/8/2017.
Various	EPA	TSCA Required Notices	40 CFR 710	82 FR 37520 8/11/2017	Link	Final Rule	EPA has established a retrospective electronic notification requirement for chemical substances on the TSCA Inventory that were manufactured (including imported) for nonexempt commercial purposes during the 10-year time period ending on June 21, 2016. Materials not covered by a new notice by the deadline or part of the facility 2016 inventory update submittal would be subject to the pre-manufacturing process before they could be manufactured.	This final rule was effective on 8/11/2017 and establishes a reporting date of 2/7/2018.
Water	EPA	Clean Water	40 CFR 110 (and others)	82 FR 55542 11/22/2017	Link	Proposed Rule	The EPA and the Department of the Army have proposed to modify the applicability date to the "Clean Water Rule: Definition of 'Waters of the United States'" to two years from the date of final action on this latest proposal. On October 9, 2015, the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court, but the Supreme Court is currently reviewing the question of whether the court of appeals has original jurisdiction to review challenges to the 2015 Rule. The proposed revision of the applicability date to the 2015 Rule would ensure that the regulatory definition of "waters of the United States" that existed prior to promulgation of the rule in 2015 and that has been in effect nationwide since the 2015 Rule was stayed on October 9, 2015, would remain in effect during the ongoing actions undertaken in response to the February 28, 2017 Executive Order to review the rule.	Public comments on the presented information were due by 12/13/2017.
Air	EPA	RFS	40 CFR 80	82 FR 56779 11/30/2017	Link	Denial of Rulemaking Request	The EPA provided notice of its denial of several petitions requesting that EPA initiate a rulemaking process to reconsider or change 40 CFR 80.1406. This rule identifies refiners and importers of gasoline and diesel fuel as the entities responsible for complying with the annual percentage standards adopted under the Renewable Fuel Standard (RFS) program. The petitioners were seeking to have the point of obligation shifted from refiners and importers.	Denial of the rulemaking request was published on 11/30/2017.
Water	EPA	Clean Water	40 CFR 116 40 CFR 117			Pre-Rule	EPA will be assessing the consequences associated with the potential discharge of CWA hazardous substances into the nation's waters, determining appropriate regulatory requirements for facilities handling such substances to prevent their discharge, and the costs and benefits of those regulatory elements.	NPRM 6/00/18 Final 9/00/19
Waste	EPA	RCRA Universal Waste	40 CFR 273			Pre-Rule	The EPA is considering a proposal to add hazardous waste aerosol cans to those "universal wastes" which once finalized, could benefit a wide variety of establishments generating and managing aerosol cans, including the retail sector, by providing a clear, practical system for handling discarded aerosol cans.	NPRM 4/00/18 Final 9/00/19

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Multimedia	EPA	TRI	40 CFR 372	82 FR 1651 1/6/17 82 FR 12924 3/8/17	Link	Proposed	EPA has proposed to add natural gas plants that do not separate sulfur to the list of facilities required to submit TRI reports. If finalized this year, this requirement could impact newly covered facilities such that they would have to report TRI releases by July 1, 2018 for CY 2017.	Comments closed 5/6/17 (this was extended from 3/7/17). The comment period was further extended to 5/6/17.
Air	EPA	NSPS	40 CFR 60 Subpart OOOOa	82 FR 28561 6/05/2017	Link	Partial Stay	EPA announced a partial stay of portions of the NSPS for fugitive emissions from certain Oil and Gas operations. The rule addresses fugitive emissions at well and compressor station sites, and emissions from pneumatic pumps. For certain sources the rule would require a PE to certify closed vent system design and capacity.	The stay is effective from June 2, 2017 to August 31, 2017. Stay remanded by court.
Air	EPA	NSPS	40 CFR 60 Subpart OOOOa	82 FR 27641 6/16/2017	Link	Stay	EPA intends to take final action before the initial three-month stay expires (see above), but there may potentially be a gap between the two stays due to the sixty-day delay in effectiveness of that action. To avoid such a potential gap, and the resulting confusion, in this action the EPA is proposing a three-month stay which would not qualify as a major rule and could become effective upon publication.	Three month extension of stay presumably from August 31, 2017 to November 30, 2017. Stay remanded by court.
Air	EPA	NSPS	40 CFR 60 Subpart OOOOa	82 FR 27645 6/16/2017	Link	Stay	EPA proposed to extend the stay for two years for the NSPS Oil and Gas operations fugitive emissions rule to allow sufficient time to fully investigate the issues raised during comment periods and the hearing.	Two year stay to June 2019. Stay remanded by court.

Agency Semi-Annual Agenda Items (Potential Future Rulemaking)

<https://resources.regulations.gov/public/custom/jsp/navigation/main.jsp>

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					Link		The Government's Unified Semi-Annual Agenda Fall 2017 issue was issued during December 2017 and is reflected here.	
Air	EPA	Fuels Regulation Modernization	40 CFR 80		Link		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
Air	EPA	NESHAP	40 CFR 63		Link		The EPA proposed a rule to allow the electronic submission of performance testing information already collected by industry by revising the reporting requirements in 40 CFR 63 for NESHAPs. In addition to performance test data, the rulemaking proposed to require the electronic submission of other selected compliance data, such as excess emissions reports, that are already being compiled and submitted by industry to regulatory authorities. This rulemaking was the first phase in the revision process and was intended to address select subparts in 40 CFR part 63. The EPA has withdrawn this rulemaking because no further action is planned at this time.	The rulemaking was withdrawn on June 2, 2017.
Air	EPA	Refinery Sector Rule (RSR)	40 CFR 63 Subpart CC	81 FR 71661 10/18/16 81 FR 76550	Link	Proposed	The proposed rule addresses five issues raised in petitions for reconsideration including revising the work standards for PRDs and for emergency flaring (an alternative work practice for when a flare exceeds its smokeless capacity). In addition EPA is proposing to allow reduced fence line monitoring based consistently low results. API and AFPM have provided quite a number of additional comments in a letter dated 12/19/16. Those comments are available on the Regulations.gov site (https://www.regulations.gov/document?D=EPA-HQ-OAR-2010-0682-0883). Some refiners have sought additional extensions beyond those already granted by EPA through their state agency for various issues including maintenance vent work practices.	The comment period ended 12/19/16. A hearing was held on 11/17/16. The Spring Agenda indicates a final rule is now scheduled for 12/17. Note that maintenance vents have new compliance requirements effective 8/1/17
Air	EPA	Refinery Sector Rule (RSR)	40 CFR 63 Subpart CC and UUU			Pre-Rule	After promulgation of the final rule, EPA received questions and comments related to certain rule provisions for which the regulated industry sought additional clarifications. The EPA was also requested to correct typographical errors and referencing errors before the compliance dates of the rule amendments.	NPRM 7/17 Final 12/17

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Air	EPA	Ethylene MACT	40 CFR 63 Subpart XX and YY		Pre-Rule	This action will address the agency's residual risk and technology review (RTR) of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Ethylene Production. Subparts XX and YY, were promulgated on July 12, 2002, and further amended on April 13, 2005. Pursuant to a court order, the EPA is obligated to complete the final action by March 13, 2020.	NPRM 11/00/18 Final 11/00/19
Air	EPA	PVC MACT	40 CFR 63		Pre-Rule	This action is in response to four petitions for reconsideration by industry and environmental stakeholders of the April 2012 Polyvinyl Chloride and Copolymers National Emission Standards for Hazardous Air Pollutants (PVC NESHAP). The petitions identify notice and comment issues, as well as several technical consistency and policy issues.	NPRM 7/00/18
Multimedia	EPA	TRI	40 CFR 372		Link Pre-Rule	As a result of a petition by the Toxic Use Reduction Institute (TURI), EPA is evaluating 25 chemicals that could potentially be added to TRI reporting requirements. The list includes 1,2,3-trichlorobenzene which is used in lubricants and coolants.	The latest agenda has: NPRM 11/00/17 Final 11/00/18
					Link	EPA now has a page called "Actions Initiated by Month" that reports on NPRM's that EPA anticipates in the next 12 months. This is updated monthly. (see below for latest listing - December 2016)	
Air	EPA	NSPS	40 CFR 60 Subpart A	80 FR 15099 3/20/15	Link Proposed	EPA is proposing to require electronic reporting of performance tests and excess emissions reports required by various NSPS standards.	The Agenda lists a target date for a final rule as December 2016
Air	EPA	GHG	40 CFR 98 Subpart W	81 FR 9797 2/26/16 81 FR 4987 1/29/16	Link Proposed	EPA proposed changes in monitoring for petroleum and natural gas systems and various changes to the reporting process in early 2016 and has yet to finalize them.	The comment period closed on 3/15/16. The agenda indicates a final rule was due to be issued in November 2016
Waste	EPA	Hazardous Waste	40 CFR 261 + Various	80 FR 57917 9/25/15	Link Proposed	EPA proposed improvements in various aspects of hazardous waste generator administrative responsibilities on 9/25/15.	The Agenda lists a final rule issue date target as 11/16

Texas Register Weekly Issues

http://www.sos.texas.gov/texreg/archive/index.shtml							
Media	Agency	Topic	Rule	Reference	Rule State	Update	Latest Action(s)
Air	TCEQ	Emissions Reduction Credits	30 TAC 101	Tex Reg 10/6/2017	Link Final Rule	TCEQ has adopted requirements to implement both area and mobile source programs for generating Emissions Reduction Credits (ERCs) to address concerns in the regulated community regarding the lack of alternatives for ERC generation as ERC cost continues to increase and availability continues to decrease.	Effective 10/12/2017