

## Developments of Interest: July to October 2009

**THIS ARTICLE HIGHLIGHTS** significant environmental regulatory changes and indicators suggesting future changes to the regulatory landscape.

The U.S. Environmental Protection Agency (EPA) has proposed new thresholds for greenhouse gas (GHG) emissions that define when Clean Air Act (CAA) permits under the Prevention of Significant Deterioration (PSD) and Title V operating permit programs would be required for new or existing emission sources. The proposed thresholds would “tailor” the permit programs to reduce the number of facilities that would be required to obtain PSD and Title V permits while still covering nearly 70 percent of the national GHG emissions from stationary sources. EPA’s position is that this proposal is necessary because the rules EPA is developing under the CAA to control GHG emissions from light-duty vehicles will trigger PSD and Title V applicability requirements for GHG emissions.

The PSD program is intended to prevent new or modified emission sources from contributing to degradation in air quality by requiring an analysis of the potential impact from increased air emissions and application of Best Available Control Technology. The Title V permit program consolidates all applicable CAA requirements for a facility into a single permit. The CAA specifies PSD major source applicability thresholds at 250 tons per year (tpy) for a “regulated pollutant” on a potential to emit basis for most sources, or 100 tpy for specified source categories. The Title V applicability threshold is 100 tpy for most sources but it can be as low as 10 tpy depending on the particular section of the CAA where the pollutant is regulated.

If the 250 or 100 tpy levels were applied to GHG emissions, millions of small stationary sources would be subject to PSD and Title V permitting, creating an unmanageable administrative burden for regulatory agencies with little environmental benefit. Therefore, EPA has indicated that their proposed rule

would provide regulatory relief by establishing an initial (Phase 1) applicability threshold at 25,000 tpy carbon dioxide (CO<sub>2</sub>) equivalent levels, and significance levels (for major modifications) between 10,000 and 25,000 tpy CO<sub>2</sub>-equivalent levels. EPA selected these thresholds by analyzing various industrial sectors and estimating the additional permitting workload that would be placed on the regulatory agencies. Phase 2 of the rulemaking, which EPA may propose after five years, would potentially revise the applicability and significance thresholds.

The CAA Services Steering Committee reviewed the proposed rule and provided comments that were submitted to EPA by the Deputy Assistant Secretary of the Navy-Environment (DASN(E)). DASN(E) is the Department of Defense’s (DoD) executive agent for the CAA. Once the rule is promulgated as final, all sources will need to work with their regulator to determine the impact of the rule on current and future CAA permitting. The promulgated rule may differ significantly from the proposal, based on the comments received from the public.

Visit <http://edocket.access.gpo.gov/2009/E9-24163.htm> to read the proposed rule and <http://www.epa.gov/climatechange/initiatives/index.html> for other proposed and final EPA regulatory initiatives related to GHGs.

Additional regulatory and environmental news items of interest (July to October 2009) include the following:

### Greenhouse Gases

#### Executive Order 13514—Federal Leadership In Environmental, Energy, and Economic Performance

For a detailed summary see:

[http://www.p2sustainabilitylibrary.mil/p2\\_documents/EO13514reqsum.doc](http://www.p2sustainabilitylibrary.mil/p2_documents/EO13514reqsum.doc)

<http://edocket.access.gpo.gov/2009/E9-24518.htm>

#### Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards [Proposed Rulemaking] (06-October-09)

<http://edocket.access.gpo.gov/2009/E9-24159.htm>

### Easy Access

**FOR EASY AND** direct access to many of the web addresses included in this regulatory summary, select the “Digital Currents” button from the *Currents* page on the Naval Air Systems Command’s environmental web site at [www.enviro-navair.navy.mil/currents](http://www.enviro-navair.navy.mil/currents).



## EPA Mandatory Greenhouse Gas Reporting Rule [Final Rule] (22-September-09)

In advance of formal publication in the Federal Register, EPA released the text:

<http://www.epa.gov/climatechange/emissions/ghgrule-making.html>

## EPA Renewable Fuels—Lifecycle of Greenhouse Gas Emissions Analysis (05-August-09)

<http://www.epa.gov/otaq/renewablefuels/420f09024.htm>

## Air

### Power Plants to Face New Air Pollution Control MACT Rules (EPA Signs Consent Decree) (23-October-09)

<http://online.wsj.com/article/SB125631670552304223.html>

### Emissions Factors Program Improvements (14-October-09)

<http://edocket.access.gpo.gov/2009/E9-24684.htm>

### PM 2.5 Nonattainment Areas Designated [Notice] (08-October-09)

<http://yosemite.epa.gov/opa/admpress.nsf/0/C7EA2F8196F225748525764900706D2F>

### Pollutants Covered by the Federal PSD Permit Program—Reconsideration [Proposed Rulemaking] (07-October-09)

<http://edocket.access.gpo.gov/2009/E9-24196.htm>

### Hospital/Medical/Infectious Waste Incinerators: Standards of Performance for New Stationary Sources and Emissions Guidelines [Final Rule] (06-October-09)

<http://edocket.access.gpo.gov/2009/E9-22928.htm>

### Federal 2nd Circuit Court Reinstates Suit of Eight States vs. Five Largest U.S. Utilities over CO<sub>2</sub> Emissions (21-September-09)

Full text of the decision is available at:

<http://climateprogress.org/wp-content/uploads/2009/09/CTvAEP.pdf>

<http://www.reuters.com/article/GCA-GreenBusiness/idUSTRE58K4VT20090921>

### Primary National Ambient Air Quality Standard for Nitrogen Dioxide—Revised [Proposed Rulemaking] (15-July-09)

<http://edocket.access.gpo.gov/2009/E9-15944.htm>

### Court Rejects Regional Ozone Cap and Trade Provisions of 8-Hour Ozone NAAQS (10-July-09)

Text of the decision is available at:

[http://www.earthjustice.org/library/legal\\_docs/ozone-court-opinion.pdf](http://www.earthjustice.org/library/legal_docs/ozone-court-opinion.pdf)

## Water

### Drinking Water; Perchlorate Supplemental Request for Comments [Notice] (23-September-09)

<http://edocket.access.gpo.gov/2009/E9-22927.htm>

### Drinking Water—Emerging Contaminant Sampling Program (18-September-09)

Participating large water providers must sample for chemicals such as pharmaceuticals, personal care products, detergents and endogenous hormones.

<http://edocket.access.gpo.gov/2009/E9-22569.htm>

### Preliminary Notice of Total Maximum Daily Load Development for the Chesapeake Bay (17-September-09)

<http://edocket.access.gpo.gov/2009/E9-22410.htm>

### Airport Deicing; Effluent Limitation Guidelines and New Source Performance Standards [Proposed Rulemaking] (28-August-09)

<http://edocket.access.gpo.gov/2009/E9-20291.htm>

### Coast Guard Standards for Living Organisms in (Commercial) Ships' Ballast Water [Proposed Rulemaking] (28-August-09)

<http://edocket.access.gpo.gov/2009/E9-20312.htm>

## Energy

### California to Increase Renewable Energy Portfolio Share to 33 Percent by 2020 (15-September-09)

<http://gov.ca.gov/press-release/13273/>

### Energy Conservation Standards for Refrigerated Bottled or Canned Beverage Vending Machines Final Rule (31-August-09)

<http://edocket.access.gpo.gov/2009/E9-19392.htm>

### EPA Renewable Fuel Standard Program Changes; Expert Peer Review (17-August-09)

<http://edocket.access.gpo.gov/2009/E9-19466.htm>

### Arizona Renewable Energy Portfolio Standard Upheld (21-July-09)

The Arizona state Supreme Court threw out a lawsuit challenging the state's renewable electricity portfolio standards.

<http://www.azcentral.com/business/articles/2008/09/24/20080924biz-goldwater0924.html>

## Health & Safety

### EPA to Review Lead Dust Hazard Standards and Lead Paint Definition [Notice] (22-October-09)

<http://www.epa.gov/oppt/chemtest/pubs/petitions.html>

Occupational Safety and Health Administration  
Combustible Dust; Proposed Rule [Proposed Rulemaking,  
Advanced Notice] (21-October-09)

<http://edocket.access.gpo.gov/2009/E9-25075.htm>

Peer Review Draft Toxicity Equivalency Factors, Dioxin &  
Dioxin-Like Compounds (16-October-09)

The draft guidance document is available at:

[http://www.epa.gov/raf/files/hhtef\\_draft\\_082709.pdf](http://www.epa.gov/raf/files/hhtef_draft_082709.pdf)

<http://edocket.access.gpo.gov/2009/E9-24926.htm>

Exposure Factors Handbook: 2009 Update  
(07-October-09)

[http://oaspub.epa.gov/eims/eimscomm.getfile?](http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=492239)

[p\\_download\\_id=492239](http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=492239)

<http://edocket.access.gpo.gov/2009/E9-24189.htm>

Guidance to Communities on Polychlorinated Biphenyls  
in Caulk of Buildings—Between 1950 and 1978 [Notice]  
(25-September-09)

[http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/28c8384eea0e67ed8525763c0059342f!](http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/28c8384eea0e67ed8525763c0059342f!OpenDocument)  
OpenDocument

Updating Occupational Safety and Health Administration  
Personal Protective Equipment Standards Based on  
National Consensus Standards [Final Rule]  
(09-September-09)

<http://edocket.access.gpo.gov/2009/E9-21360.htm>

Recommended Toxicity Equivalency Factors for Human  
Health Risk Assessments of Dioxin and Dioxin-Like  
Compounds (02-September-09)

<http://edocket.access.gpo.gov/2009/E9-21194.htm>

Carbon Nanotubes; Withdrawal of Significant New Use  
Rules [Notice] (21-August-09)

<http://edocket.access.gpo.gov/2009/E9-20150.htm>

Deaths, Lung Damage Linked to Nanoparticles in China  
[Notice] (19-August-09)

<http://www.nanowerk.com/news/newsid=12209.php>

Planning Guidance for Recovery Following Biological  
Incidents [Notice, Guidance] (17-August-09)

The guidance is available at:

<http://edocket.access.gpo.gov/2009/E9-19688.htm>

Acetylene Standard; Revision [Final Rule] (11-August-09)

<http://edocket.access.gpo.gov/2009/E9-18644.htm>

## Materials

Green Products Compilation Available from Federal  
Environmental Executive Office [Notice] (30-September-09)

[http://www.fedcenter.gov/Documents/index.cfm?id=11767&page\\_id=1854](http://www.fedcenter.gov/Documents/index.cfm?id=11767&page_id=1854)

Consideration of Electronic Data Sharing in Lieu of Paper  
Hazardous Materials Shipping Documents [Meeting]  
(08-September-09)

<http://edocket.access.gpo.gov/2009/E9-21415.htm>

Ordinary Glass Wool Fibers Not Recommended for Listing  
as Carcinogenic [Notice] (12-August-09)

<http://edocket.access.gpo.gov/2009/E9-19329.htm>

Voluntary Labeling Program for Bio-based Products  
[Proposed Rulemaking] (31-July-09)

<http://edocket.access.gpo.gov/2009/E9-17610.htm>

## Other

EPA to Develop Preliminary Remediation Goals for Dioxin  
in Soil [Notice] (16-October-09)

[http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/5f8b4675ae8772a385257650005b51f5!](http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/5f8b4675ae8772a385257650005b51f5!OpenDocument)  
OpenDocument

Vessel & Facility Response Plans for Oil; 2003 Removal  
Equipment Requirements & Alternative Technology  
Revisions [Final Rule] (31-August-09)

<http://edocket.access.gpo.gov/2009/E9-20311.htm>

Lead Wheel Balancing Weights; Toxic Substances Control  
Act Section 21 Petition to Prohibit Manufacture  
(15-July-09)

<http://edocket.access.gpo.gov/2009/E9-16815.htm>

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