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Updates to and Impacts from EPA Changes on New York State Air Regulations and Permitting

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Division of Air Resources

May 8, 2019

New York State Air Regulations in Development

Part 201 – Permits and Registrations

- Has not been formally proposed
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Part 201 – General Changes

- Minor language revisions throughout to improve clarity
- ‘Persistent, Bioaccumulative, and Toxic’ changed to ‘High Toxicity Air Contaminant’ throughout to be consistent with Part 212

Part 201 – Certificates to Operate

- Old permits issued before 1996 that were extended indefinitely
- Call-in provision added in February 2013 rulemaking has significantly reduced the number of outstanding COs, but many still remain
- Adding a firm expiration date of 12 months from the adoption of the draft revisions
 - Affected facilities may request a single extension of up to 6 months

Part 201 – Research and Development Activities

- Removing exemption for R&D activities
- Developing a new section specifying requirements for R&D activities
- May still be exempt from permitting if certain criteria are met:
 1. Commercial quantities of materials are not produced;
 2. The R&D activity is appropriately controlled;
 3. The owner or operator maintains certain records; and
 4. The total emissions from R&D activities do not exceed certain threshold levels (i.e., major source, PSD/NSR)
- A permit or registration may be required if criteria cannot be met

Part 201 – Exempt and Trivial Activity Changes

- Exemption threshold for liquid asphalt storage tanks reduced from 300,000 barrels to 10,000 gallons
- New exempt activity for process emission sources at lumber drying kilns with annual throughput of untreated lumber less than 275,000 board feet
- New exempt activity for coffee roasting operations with maximum operating capacity less than 25 tons of green coffee beans per year
- New exempt activity for cover and flare systems for manure lagoons at farms

Part 201 – Exempt and Trivial Activity Changes

- New exempt activities for the beverage alcohol production industry:
 - Process emission sources at breweries with total beer and malt liquor production less than 60,000 barrels per year
 - Process emission sources at wineries with total wine and brandy production less than 70,000 gallons per year
 - Process emission sources at distilleries with less than 10,000 distiller's bushels of grain input per year
- New exempt activity for biodiesel storage tanks with capacity less than 300,000 barrels

Part 201 – Exempt and Trivial Activity Changes

- Construction and demolition waste crushers and tub grinders being removed as trivial activities
 - May still qualify as temporary emission sources in certain situations
 - Revise exempt activity 201-3.2(c)(29) to include crushed stone, concrete, or recycled asphalt processing lines (non-metallic processing)
- Revising existing trivial activity for laser cutters to allow additional types of lasers and plasma cutting when appropriately controlled

Part 201 – State Facility Permit Modifications

- Rewrite of the modification provisions for State Facility permits
- Will include ‘minor’ and ‘significant’ modifications
 - Similar language to Title V modification provisions
 - Significant modifications will trigger public noticing if the permit was subject to public notice (e.g. it contains an emissions cap)

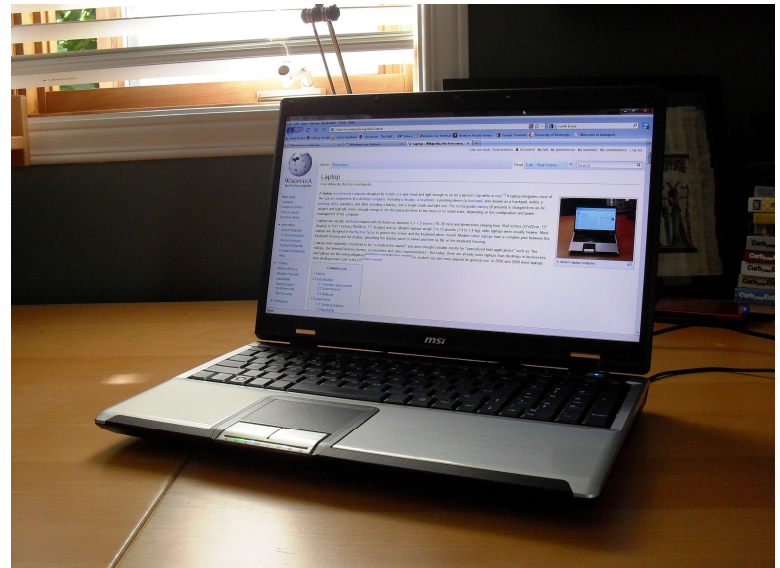
Part 201 – Title V Operational Flexibility

- Rewrite of operational flexibility provisions for Title V permits
- Allows for certain operational changes to be incorporated into the permit, providing flexibility in operations without first obtaining a permit modification
- Two options available:
 - Alternate operating scenarios; and
 - Operational flexibility protocol

Subpart 202-2 Emission Statements

- Has not been formally proposed
- Lean initiative
- ACE reporting for Title V emissions
- Evaluating staggered submission dates

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Part 203 - Oil & Natural Gas Regulation

- Has not been formally proposed
- Reductions of both VOC and CH₄ emissions
- Leak detection & repair (LDAR) is a big component
- Reporting of blowdowns
- Equipment requirements
- See the DEC stakeholder website for more details:
 - <https://www.dec.ny.gov/chemical/113887.html>
- Contact: Ona Papageorgiou
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Oil & Natural Gas Regulation – Applicability

Production

- Drilling and Well Completion
- Producing Wells
- Gathering Lines
- Gathering and Boosting Compressors

Processing

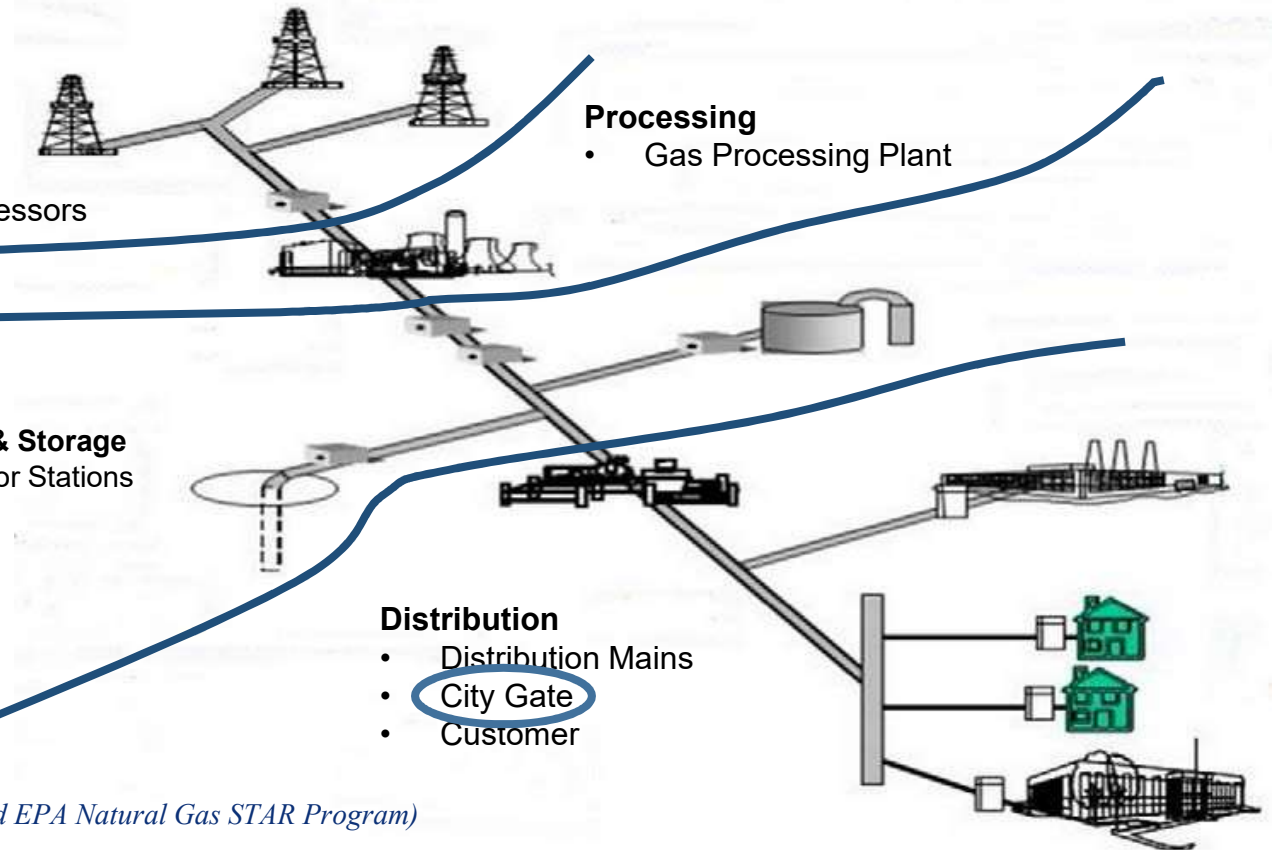
- Gas Processing Plant

Natural Gas Transmission & Storage

- Transmission Compressor Stations
- Transmission Pipeline
- Underground Storage

Distribution

- Distribution Mains
- City Gate
- Customer



(Adapted from American Gas Association and EPA Natural Gas STAR Program)

Part 208 Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills

- Proposed with hearings on 5/22 & 5/24
- Comment period ends 5/29
- Revised based on new Emission Guidelines as issued under 40 CFR Part 60, Subpart Cf
- Applies to “existing MSW Landfills” that accepted waste after 11/8/87 and began construction or modification before 7/17/14
- Lower NMOC emission threshold from 50 Mg/year to 34 Mg/year for installing a gas collection and control system (GCCS)
- Repeal and replace by revising Part 200 to incorporate by reference the new EG for MSW Landfills as codified in 40 CFR Part 60, Subpart Cf.
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Part 212 Process Operations

- Has not been formally proposed
- Update Mass Emission Limits in Table 2
- Source owners have new option to meet Mass Emission Limits in Subpart 212-2, Table 2
- Regulate HTACs at iron/steel industry
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Part 219 Incinerators

- Has not been formally proposed
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Subpart 219-4, Human and Animal Crematories

- Adjusting operating and design requirements to better align with the current cremation industry
- No change in PM limit for existing cremation units
- New PM limit (0.05 gr/dscf @ 7% O₂) for units installed after effective date
- Allow representative stack tests conducted outside NY on similar units
- Changes to recordkeeping requirements
- Operator training required for all operators
- Sunset of 219-5 and 219-6
 - Currently subject units required to comply with new 219-4



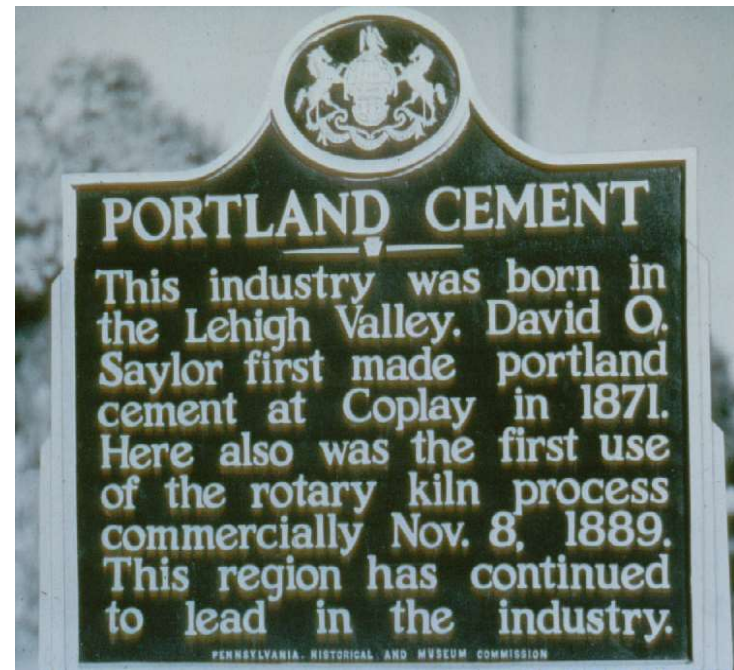
Subpart 219-10, NO_x RACT at Municipal and Private Solid Waste Incineration Units

- Add NO_x RACT limits for solid waste incinerators
 - 150 ppmv annual average limit
 - 24-hour average limit based on combustion technology
- Compliance demonstrated via stack testing and CEMs



Subpart 220-1 Portland Cement Plants

- Has not been formally proposed
- Minor revisions to better align with federal regulations and reduce monitoring costs
- Lower particulate emission limit to match that of 40 CFR 63 Subpart LLL
- Include the use of particulate matter continuous monitoring systems, as required by Subpart LLL
- Incorporate 40 CFR Part 60 monitoring and reporting in place of federal Part 75 to fulfill continuous NOx emissions monitoring from Portland cement kilns.
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Subpart 220-3 Hot Mix Asphalt Plants

- Has not been formally proposed
- Replace Subpart 212-4 with a new dedicated source category regulation specific to HMA plants
- More stringent controls for both new and existing HMA plants
- Require new HMA plants to apply BACT for criteria and non-criteria air contaminants
- Require existing HMA plants to address excess emissions, odors, and visible smoke by using asphalt storage tank vent condensers, silo and load-out controls, and low sulfur diesel fuel in aggregate drum mixers
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Part 222 Distributed Generation Sources

- Has not been formally proposed
- Establish NO_x emission limits for sources not subject to Subpart 227-2
- Revised rule will apply only to downstate ozone non-attainment area
- Contact: John Barnes
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Subpart 225-1 Fuel Composition and Use – Sulfur Limitations

- Has not been formally proposed
- Updating per 5 year review
- Express Terms & Support Doc's under development
- Updating to include process sources & incinerators
- Lower current waste oil sulfur content limitation from 0.75% to 0.25%
- Implementation date – upon rule promulgation
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Subpart 225-2 Fuel Composition and Use - Waste Oil as a Fuel

- Has not been formally proposed
- Regulates burning of waste oils in combustion, incineration, and process sources
- Establishes applicability criteria, composition limits, and permitting requirements for waste oils
 - Lower PCB and lead limits in waste oil
 - Includes arsenic, cadmium & chromium limits
- Allows the burning of waste oils in space heaters at automotive maintenance/service facilities. Proposing to include marine service facilities as part of this exception.
- Establishes monitoring, recordkeeping, and reporting requirements for facilities that are eligible to burn waste oil
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Part 226 Solvent Metal Cleaning Processes

- Proposed with hearings on 5/22 & 5/24
- Comment period ends 5/29
- Current Part 226 to be re-designated Subpart 226-1 and renamed “Solvent Cleaning Processes”
- Open applicability to include any material cleaned by solvent cleaning processes, not just metals
- Include aspects of the OTC model rule into 226-1
- Change current ‘cold cleaning’ requirement of using solvent with max. vapor pressure of 1.0 mm Hg, or less, at 20°C to using a cleaner with no more than 25 g/l of cleaning solution



Part 226 - continued

- A new Subpart 226-2 entitled “Industrial Cleaning Solvents” will be added
- Establish requirements that meet the federal (CTG) for industrial cleaning solvents
 - Facility applicability: 3 tons/yr or more VOC from cleaning solvents
 - Applies to cleaning of foreign materials from surfaces of unit operations, including large and small manufactured components, parts, equipment, floors, tanks, and vessels
 - Cleaning by any method is included, whether by hand or mechanical means.
 - Use of cleaning solvents already subject to (or exempt from) other regulatory provisions are not subject to new requirements under 226-2
- Contact: John Henkes
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Subpart 227-1 Stationary Combustion Installation

- Has not been formally proposed
- Redefine applicability
- Lower existing particulate matter limits
- Maintains an opacity limit for all stationary combustion installations
- Includes compliance testing and monitoring
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Subpart 227-3 Peaking Units

- Proposed with hearings on 5/6, 5/13 & 5/14
- Comment period ends 5/20
- Proposal:
 - applies to simple cycle combustion turbines,
 - lowers NOx emission rates, and
 - offers several compliance options.
- See the DEC stakeholder website for more details:
 - <https://www.dec.ny.gov/chemical/113887.html>
- Contact: Ona Papageorgiou
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Subpart 228-3 Motor Vehicle and Mobile Equipment Refinishing and Recoating Operations

- Has not been formally proposed; working on Express Terms and Support Documents
- Change VOC limits to meet CARB regulations
- Update record keeping requirements
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Part 231 New Source Review for New and Modified Facilities

- Has not been formally proposed
- Modify Greenhouse Gas criteria applicability to conform with federal regulations/U.S. Supreme Court ruling
- Changes will also be made in accordance with EPA's comments (2016) on the Part 231 SIP submission (2011)
 - Global Warming Potentials
 - Inter-Pollutant Trading Ratios
 - Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) for PM-2.5
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Part 242 Regional Greenhouse Gas Initiative (RGGI)

- Gathering information on new states
- Reflect changes set in updated RGGI model rule
- Program changes effective by end of 2018/ beginning of 2019
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Part 251 CO2 Performance Standards for Major Electric Generating Facilities

- Include emission standards for existing boilers at major fossil fuel fired facilities
- Part of Governor's Reforming the Energy Vision
- Proposed rule
 - <http://www.dec.ny.gov/regulations/113501.html>
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Others

- Part 205 Architectural and Industrial Maintenance (AIM) Coatings
- Part 218 Emissions Standards for Motor Vehicles and Motor Vehicle Engines
- Part 230 Gasoline Dispensing Sites and Transportation Vehicles
- Part 235 Consumer Products
- Part 247 Outdoor Wood Boilers
- Part 257 Air Quality Standards and Classifications



U.S. EPA Policy/Rulemaking Changes

Rescission of “Once In, Always In”

- Wehrum Memorandum dated 1/25/2018
- Rescinds the OIAI policy announced in 1995 Seitz Memo, which provided that once a source of HAPs is considered a major source under CAA Section 112, it remains major even if its HAP emissions drop below major source levels
- Henceforth, HAP sources previously classified as “major” sources may be reclassified as “area” sources at any time, provided the facility limits its PTE below major source thresholds
- NYSDEC has Part 212 to control sources of HAPs

NSR Actual-to-Projected-Actual Applicability Test Guidance Memorandum

- Signed by Administrator on 12/7/2017
- Where a source projects no emission increase, the level of actual emissions after the project governs applicability
- Projections may reflect the intent to actively manage post-project operations in order to prevent a significant emissions increase from occurring.
- EPA will not “second-guess” a facility’s pre-construction emissions projections, provided the facility complies with procedural requirements
- No federal NSR enforcement action unless post-project actual emissions data indicate a significant emissions increase actually occurred.



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NSR Project Emissions Accounting (Project Netting) Memo/Rulemaking

- Guidance Memo signed by Administrator on 3/6/2018
- Proposed rulemaking
- EPA interprets existing NSR regulations to allow sources to consider emissions decreases as well as increases at “Step 1” of the 2-step NSR applicability process to determine a significant emissions increase
- Prior EPA policy had precluded the consideration of emissions decreases at Step 1
- NY Part 231 does not allow the consideration of decreases in Step 1

Project Aggregation Final Action

- EPA finalized reconsideration proceedings on a January 2009 action to clarify its interpretation of “project aggregation” for NSR permitting
- EPA will retain its 2009 interpretation as follows:
 - Physical and/or operational changes at a source should be aggregated into a single project for NSR permitting when they are “substantially related”

Common Control & Source Aggregation

- EPA letter dated 4/18/2018 to Meadowbrook Energy revises the federal interpretation of “common control” for purposes of source aggregation in NSR and Title V permitting
- Henceforth, EPA’s assessment of “control” will focus on “the power or authority of one entity to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements.”
- Draft Guidance released 9/04/2018 on “adjacency” for source aggregation purposes

Final SILs Guidance for Ozone and PM-2.5

- Sets recommended threshold levels below which a source's emissions can be presumed to not cause or contribute to a violation of the ozone or PM-2.5 NAAQS
- Challenged in D.C. Circuit by Sierra Club which argues that SILs create an illegal waiver of PSD requirements

Treatment of Biogenic CO2 Emissions in Permitting

- 4/23/2018 EPA policy statement on the treatment of forest biomass for energy production
- EPA will treat CO2 emissions from combustion of forest biomass for energy production at stationary sources as carbon neutral

Proposed Affordable Clean Energy Rule

- Defining the “best system for emission reduction” for GHG emissions from existing power plants as heat-rate efficiency improvements
- Would amend the NSR permitting program to replace annual emissions increase test with an hourly emissions rate increase test for modifications at EGUs

EPA Oversight of NYSDEC Air Permitting Program



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“Action” Items Identified by EPA in Recent Permit Program Audit

- Capping limits
 - DEC guidance for developing federally enforceable permit conditions was revised in March 2017
 - DEC should substantiate in PRR or public notice all capping limits that render applicable requirements no longer applicable
 - Should include appropriate monitoring, recordkeeping or reporting requirements
 - Emission factors
- Compliance Assurance Monitoring (CAM) Plans not being adequately described in permit

Permit Audit “Action” Items – continued

- Non-Delegated Federal Standards
- Insignificant (Exempt) Activities
- Permit Review Report (PRR)
- Public Participation
- Funding of Title V permit program
- Continued dialogue with EPA

Other Items Identified in EPA Permit Reviews

- RACT Variances (single source SIP revisions)
- Hourly/short-term limits, even if not required by regulation
- Re-hashing original documents and permitting decisions 2 or 3 renewal cycles later
 - e.g. - system wide NOx averaging plans that have been in place for 10-15 years or more. Or, old RACT variances.



Impact of Short Term Ambient Standards on Permits

- Must model for and address compliance with 1-hour NO₂ and SO₂ NAAQS
- Title V permits vs. minor source permits
- Modeling at worst case hourly emission rate
- Additional permit conditions reflecting how facility was modeled

Questions and Comments



Thank You

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