

3. REGULATIONS

A. Organic Liquids Distribution (EPA)

On April 2, 2002, (67 FR 15674), the U.S. Environmental Protection Agency (EPA) promulgated a proposed rule (40 CFR part 63) that proposes national emission standards for hazardous air pollutants (NESHAP) for organic liquids distribution (non-gasoline) operations, which are carried out at storage terminals, refineries, crude oil pipeline stations, and various manufacturing facilities. These proposed standards would implement section 112(d) of the Clean Air Act by requiring all organic liquids distribution operations at plant sites that are major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT).

EPA estimates that approximately 70,200 megagrams per year (77,300 tons per year) of HAP are emitted from facilities in this source category. Although a large number of organic HAP are emitted nationwide from these operations, benzene, ethylbenzene, toluene, vinyl chloride, and xylenes are among the most prevalent. These HAP have been shown to have a variety of carcinogenic and non-cancer adverse health effects. EPA estimates that these proposed standards would result in the reduction of HAP emissions from major sources in the organic liquids distribution source category by 28 percent. The emissions reductions achieved by these proposed standards, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the Clean Air Act.

For further information, contact Ms. Martha Smith, Waste and Chemical Processes Group, Emissions Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (telephone: (919) 541-2421, electronic mail: smith.martha@epa.gov).

B. Petroleum Refineries (EPA)

On April 11, 2002, (67 FR 17762), the U.S. Environmental Protection Agency (EPA) published a final rule (40 CFR part 63) that establishes final national emission standards for hazardous air pollutants (NESHAP) for certain types of affected sources at petroleum refineries. The affected sources include catalytic cracking units, catalytic reforming units, and sulfur recovery units, as well as associated by-pass lines. EPA has identified petroleum refineries as major sources of hazardous air pollutants (HAP). Hazardous air pollutants that would be reduced by this final rule include organics (acetaldehyde, benzene, formaldehyde, hexane, phenol, toluene, and xylene); reduced sulfur compounds (carbonyl sulfide, carbon disulfide); inorganics (hydrogen chloride, chlorine); and particulate metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, and nickel). The health effects of exposure to these HAP can include cancer, respiratory irritation, and damage to the nervous system.

These final standards implement section 112(d) of the Clean Air Act by requiring all petroleum refineries that are major sources to meet standards reflecting the application of the maximum

achievable control technology (MACT). When fully implemented, this rule will reduce HAP emissions from the affected sources by nearly 11,000 tons per year – an 87 percent reduction from current levels. Emissions of other pollutants such as volatile organic compounds (VOC), particulate matter (PM), carbon monoxide (CO), and hydrogen sulfide will be reduced by about 60,000 tons per year.

For further information, contact Mr. Robert B. Lucas, Waste and Chemical Process Group, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (telephone: (919) 541-0884, electronic mail: lucas.bob@epa.gov).

C. Alternate Hull Examination Program (CG)

On April 29, 2002, (67 FR 21062), the Coast Guard, U.S. Department of Transportation, issued an interim rule (46 CFR parts 71, 114, 115, 125, 126, 167, 169, 175, and 176) that establishes an alternative hull examination program for certain passenger vessels. This rule establishes the option of alternating drydock examinations with underwater surveys for nautical school, offshore supply, passenger, and sailing school vessels. This rule also establishes an examination process that gives industry additional latitude in scheduling inspections and will create parity between passenger vessels and all other Coast Guard-inspected vessels. The Coast Guard expects this rule to result in a reduction of time and paperwork associated with Coast Guard vessel inspections and examinations.

For further information, contact Mr. Don Darcy, Office of Standards Evaluation and Development (G-MSR), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (telephone: (202) 267-1200, electronic mail: ddarcy@comdt.uscg.mil).

D. Hazardous Materials Security (RSPA)

On May 2, 2002, (67 FR 22028), the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, published a proposed rule (49 CFR parts 107, 171, 172, and 177) concerning new requirements to enhance the security of hazardous materials transported in commerce. Proposals include a requirement for motor carriers registered with RSPA to maintain a copy of their current registration certificate on each motor vehicle. RSPA further proposes to require shipping papers to include the name and address of the consignor and consignee and the shipper's DOT hazardous material registration number, if applicable. In addition, RSPA proposes to require shippers and carriers of certain highly hazardous materials to develop and implement security plans. Also proposed, hazardous materials shippers and carriers would be required to assure that their employee training includes a security component.

RSPA's hazardous materials regulations (HMR; 49 CFR parts 171-180) are designed to achieve the goals: (1) to ensure that hazardous materials are packaged and handled safely during transportation, thus minimizing the possibility of their release should an incident occur, and (2) to effectively communicate to carriers, transportation workers, and emergency responders the

hazards of the materials being transported. The HMR: (1) specify how to classify and package a hazardous material; (2) prescribe a system of hazard communication using placards, labels, package markings, and shipping papers; (3) prescribe training requirements for persons who prepare hazardous materials for shipment or transport hazardous materials; and (4) include operational requirements applicable for each mode of transportation.

For further information, contact Ms. Susan Gorsky, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (telephone; (202) 366-8553).

E. Discharge of Fill Material (ACE/EPA)

On May 9, 2002, (67 FR 31129), the U.S. Army Corps of Engineers (ACE) and the U.S. Environmental Protection Agency (EPA) promulgated a final rule (33 CFR part 323 and 40 CFR part 232) to reconcile their Clean Water Act (CWA) section 404 regulations defining the term “fill material” and to amend their definitions of “discharge of fill material.” This final rule defines “fill material” in both the ACE’s and EPA’s regulations as material placed in waters of the United States where the material has the effect of either replacing any portion of a water of the United States with dry land or changing the bottom elevation of any portion of a water. Examples of “fill material” include rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in waters of the United States. The rule includes an explicit exclusion from the definition of “fill material” for trash and garbage.

This rule also includes several clarifying changes to the term “discharge of fill material.” Specifically, the term “infrastructure” has been added in several places following the term “structure” to further define the situations where the placement of fill material is considered a “discharge of fill material.” In addition, the phrases “placement of fill material for construction or maintenance of any liner, berm or other infrastructure associated with solid waste landfills” and “placement of overburden, slurry, or tailings or similar mining-related materials” have been added to the definition of “discharge of fill material” to provide further clarification of the types of activities regulated under section 404.

For further information, contact Mr. Thaddeus J. Rugiel,, U.S. Army Corps of Engineers (CECW-OR), 441 G Street, NW, Washington, DC 20314, (telephone: (202) 761-4595, electronic mail: thaddeus.j.rugiel@hq02.usace.army.mil) or Ms. Brenda Mallory, Office of Wetlands, Oceans and Watersheds (4502T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (telephone: (202) 566-1368, electronic mail: mallory.brenda@epa.gov).

F. Marine Sanitation Device No Discharge Zone (EPA)

On May 21, 2002, (67 FR 35735), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR part 140) that establishes a marine sanitation device (MSD) no discharge zone

(NDZ) for state waters within the boundaries of the Florida Keys National Marine Sanctuary (FKNMS) pursuant to section 312 of the Clean Water Act. Basically, state waters extend from land out to a distance of 3 statute miles on the Atlantic side of the Florida Keys and 9 nautical miles on the Gulf of Mexico side. The National Oceanic and Atmospheric Administration (NOAA) is pursuing NDZ status for federal waters within the FKNMS. Currently, there are about 30 pump out facilities located throughout the Florida Keys.

The Florida Keys are a national treasure of international acclaim that contain unique environments and possess high value to humans when properly conserved. Congress created the FKNMS with the signing into law of the Florida Keys National Marine Sanctuary and Protection Act (P.L. 101-605) on November 16, 1990. The purpose of a marine sanctuary is to protect resources and their conservation, recreational, ecological, historical, research, educational, or aesthetic values through comprehensive long-term management.

For further information, contact Mr. Drew Kendall, Coastal Programs, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, GA 30303-8960, (telephone: (404) 562-9394).

G. Air Pollution from New Marine Diesel Engines (EPA)

On May 29, 2002, (67 FR 37548), the U.S. Environmental Protection Agency (EPA) issued a proposed rule (40 CFR part 94) that proposes emission standards for new marine diesel engines at or above 30 liters per cylinder (Category 3) and 2.5 to 30 liters per cylinder (Category 1 and Category 2) on U.S. vessels. Marine diesel engines at or above 30 liters per cylinder are very large marine engines used primarily for propulsion power on ocean-going vessels such as container ships, tankers, bulk carriers, and cruise ships. The vessels that use these engines are flagged in the United States and in other countries. Nationwide, these engines contribute to ozone and carbon monoxide nonattainment and to ambient particulate matter levels, particularly in commercial ports and along coastal areas.

EPA is proposing emission controls for these engines at or above 30 liters per cylinder on U.S. vessels. EPA is proposing a first tier that is equivalent to the internationally negotiated oxides of nitrogen (NO_x) standards and that would be enforceable under U.S. law for new engines built in 2004 and later. EPA is also considering adoption of a subsequent second tier of standards, which would reflect additional reductions that can be achieved through engine-based controls, and would apply to new engines built after 2006 or later. In addition, EPA is proposing voluntary low-emission engine standards that reflect advanced oxides of nitrogen emission-control technologies. Meeting these standards would likely require the use of technologies such as selective catalyst reduction or fuel cells. If the second tier is promulgated, EPA would review the second tier standards prior to their effective date to take into consideration continued development of new technologies, such as selective catalyst reduction and water-based emission reduction techniques, and international activity, such as action at the International Maritime Organization (IMO), to set more stringent international standards. Consistent with these factors, EPA is also considering not adopting Tier 2 standards in this rulemaking, and instead

establishing a schedule for a future rulemaking and addressing Tier 2 standards in that future rulemaking.

Emissions from all marine diesel engines at or above 30 liters per cylinder, regardless of flag of registry, currently account for about 1.5 percent of national mobile source oxides of nitrogen emissions. This contribution can be significantly higher on a port-specific basis. The contribution of these engines to national mobile source hydrocarbon and carbon monoxide inventories is small, less than 0.1 percent, and EPA is considering standards to ensure that these emissions do not increase on an engine-specific basis. The contribution of these engines to the national mobile source particulate matter inventory is about 2.6 percent. Reductions in particulate emissions could be obtained by setting a sulfur content standard for the fuels that are used by these engines, and EPA is requesting comment on whether the Agency should adopt such standards and, if so, the level of sulfur that should be allowed.

EPA is also proposing new requirements for marine diesel engines at or above 2.5 liters per cylinder but less than 30 liters per cylinder. The Tier 2 standards finalized for these engines in EPA's 1999 commercial marine diesel engine rule apply beginning in 2007. Until then, engine manufacturers are encouraged to voluntarily comply with the Tier 1 standards, which are equivalent to the internationally negotiated NO_x standards. The international NO_x standards are not yet enforceable. Given that they have not yet entered into force, EPA believes that it is appropriate to begin to require engine manufacturers to certify these engines to the Tier 1 standards, starting in 2004. EPA is also proposing to eliminate the foreign trade exemption for all marine diesel engines, which is available for engines installed on vessels that spend less than 25 percent of total operating time within 200 nautical miles of U.S. territory.

The proposed standards would apply to engines installed on vessels flagged in the United States. Recognizing that foreign-flag vessels constitute a significant portion of emissions from these engines, EPA is seeking comment on whether the proposed standards and the existing Category 1 and Category 2 standards should also apply to marine engines on foreign vessels entering U.S. ports and to no longer exclude such foreign vessels from the emission standards. If EPA were to determine that the standards should apply to engines on foreign vessels that enter U.S. ports, then all emission standards for marine diesel engines would apply, including those EPA finalized for marine diesel engines less than 30 liters per cylinder in its 1999 rule.

For further information, contact Ms. Margaret Borushko, National Vehicle and Fuels Emission Laboratory, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105, (telephone: (734) 214-4334, electronic mail: borushko.margaret@epa.gov).

H. Deepwater Ports (CG)

On May 30, 2002, (67 FR 37920), the Coast Guard (CG), U.S. Department of Transportation, promulgated a proposed rule (33 CFR parts 148, 149, and 150) that proposes to revise the regulations governing deepwater ports. These regulations are over 25 years old and were written at a time when no deepwater ports existed on which to base regulations. This rulemaking is

necessary to update the regulations with current technology and industry standards. It would also align them with certain regulations for other fixed offshore facilities.

For the purpose of these regulations, a deepwater port is a structure located beyond the territorial sea and off the coast of the United States that is used to receive, store, and distribute oil to refineries in the United States. At present, the Louisiana Offshore Oil Port (LOOP) is the only licensed deepwater port. Topics addressed by this rule include: application for a license, processing applications, licenses, site evaluation and pre-construction testing, exemption from requirements, limit of liability, pollution prevention equipment, lifesaving equipment, fire-fighting and fire-protection equipment, aids to navigation, design and equipment, inspections, personnel, vessel navigation, oil transfer operations, operations, workplace safety and health, reports and records, and safety zones.

For further information, contact Cdr. Mark Prescott, Vessel and Facility Operating Standards Division, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (telephone: (202) 267-0225, electronic mail: mprescott@comdt.uscg.mil).