Regulatory Updates – March 2019

Recently Published Rules

The final rule, **National Emission Standards for Hazardous Air Pollutants: Friction Materials Manufacturing Facilities Residual Risk and Technology Review**, was signed on December 20, 2018, and was published in the **Federal Register** on February 8, 2019, at 84 FR 2742. This action finalizes the RTR conducted for the Friction Materials Manufacturing Facilities source category regulated under NESHAP. In addition, we are taking final action addressing periods of SSM. We are finalizing our proposed determination that the risks from the category are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. We identified no new cost-effective controls under the technology review to achieve further emissions reductions. These final amendments include amendments to revise reporting requirements for deviations. These amendments are made under the authority of the CAA and will improve the effectiveness of the rule. The amendments are environmentally neutral.

The final rule, **National Emission Standards for Hazardous Air Pollutants: Leather Finishing Operations Residual Risk and Technology Review**, was signed on December 21, 2018, and was published in the **Federal Register** on February 12, 2019, at 84 FR 3308. This action finalizes the RTR conducted for the Leather Finishing Operations source category regulated under NESHAP. In addition, we are taking final action addressing SSM, electronic reporting and clarification of rule provisions. These final amendments address emissions during periods of SSM, add electronic reporting and revise certain rule requirements and provisions. Although these amendments will not reduce emissions of hazardous air pollutants, they are expected to improve compliance and implementation of the rule.

The final rule, **National Emission Standards for Hazardous Air Pollutants: Wet-Formed Fiberglass Mat Production Residual Risk and Technology Review**, was signed on December 20, 2018, and was published in the **Federal Register** on February 28, 2019, at 84 FR 6676. This action finalizes the RTR conducted for the Wet-Formed Fiberglass Mat Production source category regulated under NESHAP. In addition, we are taking final action addressing SSM, electronic reporting and clarification of rule provisions. These final amendments address emissions during periods of SSM; add electronic reporting; revise certain monitoring, recordkeeping and reporting requirements; and include other miscellaneous technical and editorial changes. These final amendments will result in improved compliance and implementation of the rule.

The final rule, **National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products Residual Risk and Technology Review**, was signed on December 20, 2018, and was published in the **Federal Register** on March 4, 2019, at 84 FR 7682. This action finalizes the RTR conducted for the Surface Coating of Wood Building Products source category regulated under NESHAP. In addition, we are taking final action addressing periods of SSM. We are finalizing our proposed determination that the risks are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. We identified no new cost-effective controls under the technology review to achieve further emissions reductions. These final amendments include provisions regarding electronic reporting, adding an alternative compliance equation under the current standards and technical and editorial changes. This action also finalizes a new EPA test method to measure isocyanate compounds in certain surface coatings. These amendments are being made under the

authority of the CAA and will improve the effectiveness of the rule. The amendments are environmentally neutral.

The proposed rule, **National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units -- Reconsideration of Supplemental Finding and Residual Risk and Technology Review**, was signed on December 27, 2018, and was published in the **Federal Register** on February 7, 2019, at 84 FR 2670. The EPA is proposing a revision to its response to the U.S. Supreme Court decision in *Michigan v. EPA* which held that the EPA erred by not considering cost in its determination that regulation under section 112 of the Clean Air Act (CAA) of hazardous air pollutant (HAP) emissions from coal- and oil-fired electric utility steam generating units (EGUs) is appropriate and necessary. After considering the cost of compliance relative to the HAP benefits of regulation, the EPA proposes to find that it is not "appropriate and necessary" to regulate HAP emissions from coal- and oil-fired EGUs, thereby reversing the Agency's prior conclusion under CAA section 112(n)(1)(A) and correcting flaws in the Agency's prior response to *Michigan v. EPA*. We further propose that finalizing this new response to *Michigan v. EPA* will not remove the Coal- and Oil-Fired EGU source category from the CAA section 112(c) list of sources that must be regulated under CAA section 112(d) and will not affect the existing CAA section 112(d) emissions standards that regulate HAP emissions from coal- and oil-fired EGUs. We are soliciting comment, however, on whether the EPA has the authority or obligation to delist EGUs from CAA section 112(c) and rescind (or to rescind without delisting) the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coal- and Oil-Fired EGUs, commonly known as the Mercury and Air Toxics Standards (MATS). The EPA is also proposing the results of the residual risk and technology review of the NESHAP that the Agency is required to conduct in accordance with CAA section 112. The results of the residual risk analysis indicate that residual risks due to emissions of air toxics from this source category are acceptable and that the current standards provide an ample margin of safety to protect public health. No new developments in HAP emission controls to achieve further cost-effective emissions reductions were identified under the technology review. Therefore, based on the results of these analyses and reviews, we are proposing that no revisions to MATS are warranted. Finally, the EPA is also taking comment on establishing a subcategory for emissions of acid gas HAP from existing EGUs firing eastern bituminous coal refuse. Comments have been requested on or before April 8, 2019; however, due to a public hearing that is currently scheduled for March 18, 2019, the comment period has been extended by 9 days, to April 17, 2019. See **Public Hearing Announcement** section below for further information.

Public Hearing Announcement

A notice to announce a public hearing for the **National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units -- Reconsideration of Supplemental Finding and Residual Risk and Technology Review** proposed rule was signed on February 25, 2019, and published in the **Federal Register** on February 28, 2019, at 84 FR 6739. The proposed rule was signed on December 27, 2018. The public hearing has been scheduled for Monday, March 18, 2019, at the EPA WJC East Building, 1201 Constitution Avenue, NW, Room 1153, Washington, DC 20004. The hearing will convene at 8:00 a.m. and will conclude at 6:00 p.m. local time. Information about the public hearing is posted online, and can be found at *https://www.epa.gov/mats/proposed-revised-supplemental-finding-and-results-residual-risk-and-technology-review*. The EPA is extending the public comment period by 9 days, from April 8, 2019, until April 17, 2019, which is consistent

with the requirement to keep the record open for at least 30 days after a public hearing is held.

A notice to announce a public hearing for the proposed rule, **National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production Residual Risk and Technology Review,** was signed on February 28, 2019, and published in the **Federal Register** on March 6, 2019, at 84 FR 8069. The proposed rule was signed on December 20, 2018.The public hearing has been scheduled for Wednesday, March 27, 2019, at the EPA WJC East Building, 1201 Constitution Avenue, NW, Washington, DC 20004. The hearing will convene at 9:00 a.m. and will conclude at 5:00 p.m. local time. Information about the public hearing will be posted online, and can be found at [HYPERLINK "https://www.epa.gov/stationary-sources-air-pollution/hydrochloric-acid-production-national-emission-standards-hazardous"]. In addition, the EPA is extending the public comment period by 36 days, from March 21, 2019, to April 26, 2019.