



EPA REGULATORY UPDATE

**2011 ENVIRONMENTAL, HEALTH & SAFETY
INTERNATIONAL COMMUNICATIONS CONFERENCE
SEPTEMBER 27, 2011**

- **President issued Executive Order 13563 on 1/21/11**
- **Purpose: improve development of new regulations and review of old regulations**
- **General Principles:**
 - » Propose regulation only when benefits justify costs
 - » Tailor rules to impose least burden on society
 - » Select options that maximize net benefits
 - » Specify performance objectives
 - » Identify and assess alternative to direct regulation
- **Retroactive Review**
 - » Agency solicited comments first half of 2011

- **EPA Final Plan for Periodic Retrospective Reviews of Existing Regulations**
 - » Published August 2011
- **Adopted Four Initiatives:**
 - » Electronic Reporting
 - » Improved Transparency: increased disclosure of compliance and efficacy
 - » Innovative Compliance Approaches: efficient/effective and least-burdensome
 - » Systems Approaches/Integrated Problem Solving: regulatory/non-regulatory approaches
- **Selected 35 Regulatory Reviews**
 - » 16 “early actions”
 - » 19 longer terms actions
- **Will Undertake Reviews Every Five Years**

“Early Actions”

- **Gasoline and diesel regulations: reducing reporting and recordkeeping**
- **Equipment leak detection and repair: reducing burden**
- **Regulatory certainty for farmers: working with the U.S. Department of Agriculture (USDA) and states**
- **Modern science and technology methods in the chemical regulation arena: reducing whole-animal testing, reducing costs and burdens, and improving efficiencies**
- **Electronic online reporting of health and safety data under the Toxic Substances Control Act (TSCA); Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and Federal Food, Drug and Cosmetic Act (FFDCA): reducing burden and improving efficiencies**
- **National Priorities List rules: improving transparency**
- **Quick changes to some TSCA reporting requirements: reducing burden**
- **National Pollutant Discharge Elimination System (NPDES): coordinating permit requirements and removing outdated requirements**

“Early Actions”

- **National primary drinking water regulations – Long Term 2 Enhances Surface Water Treatment: evaluating approaches that may maintain, or provide greater, public health protection**
- **Combined Sewer Overflows (CSOs) and integrated planning for wet weather infrastructure investments: providing flexibilities**
- **Vehicle regulations: harmonizing requirements for:**
 - » Greenhouse gas and fuel economy standards
 - » Vehicle emission standards
- **Multiple air pollutants: coordinating emission reduction regulations and using innovative technologies**
- **NSPS reviews and revisions under CAA: setting priorities to ensure updates to outdated technologies**
- **CAA Title V Permit programs: simplifying and clarifying requirements**
- **Innovative technology: seeking to spur new markets and utilize technological innovations**
- **The costs of regulations: improving cost estimates**

- **Vehicle fuel vapor recovery systems: eliminating redundancy**
- **New Source Performance Standards (NSPS) under the CAA for grain elevators, amendments: updating outmoded requirements and relieving burden**
- **Sanitary Sewer Overflow (SSO) and peak flow wet weather discharges: clarifying permitting requirements**
- **E-Manifest: reducing burden**
- **Electronic hazardous waste Site ID form: reducing burden**
- **Consumer confidence reports for primary drinking water regulations: providing for the open exchange of information**
- **Reporting requirements under Section 303(d) of the Clean Water Act (CWA): reducing burden**
- **Export notification for chemicals and pesticides: reducing burden and improving efficiencies**
- **Water quality trading: improving approaches**
- **Water quality standard regulations: simplifying and clarifying requirements**

- **State Implementation Plan (SIP) process: reducing burden**
- **National primary drinking water regulations for lead and copper: simplifying and clarifying requirements**
- **Adjusting threshold planning quantities (TPQs) for solids in solution: reducing burden and relying on scientific objectivity**
- **Integrated pesticide registration reviews: reducing burden and improving efficiencies**
- **Certification of pesticide applicators: eliminating uncertainties and improving efficiencies**
- **Polychlorinated biphenyls (PCB) reforms: improving efficiencies and effectiveness**
- **Hazardous waste requirements for retail products: clarifying and making the program more effective**
- **Contaminants under the Safe Drinking Water Act (SDWA): coordinating regulatory requirements**
- **Section 610 reviews: coordinating requirements**

- Review overseen by Regulatory Policy Officer, the Associate Administrator for the Office of Policy
- EPA intends to conduct reviews every five years and encourages public to identify possible areas for reform at any time
- EPA will start each review period by soliciting public input
- EPA to use *Semiannual Regulatory Agenda* and website, to aid the public in tracking reviews
- EPA will make data and analyses available whenever possible
- Notice-and-comment opportunities when making modifications to regulations

- **EPA Process Going Forward – Four Steps:**
 1. Select Rule Nominations: from public and in-house EPA experts
 2. Assess generally whether the executive order is likely to have a bearing on the regulation's review
 3. Fully analyze each regulation and review the following areas:
 - Benefits justify costs
 - Least burden
 - Net benefits
 - Performance objectives
 - Alternatives in direct regulation
 - Quantified benefits and costs/qualitative values
 - Open exchange of information
 - Coordination, simplification, and harmonization across agencies
 - Innovation
 - Flexibility
 - Scientific and technological objectivity
 4. Make Necessary Modifications

- **General Support for Retroactive Reviews**
- **Requested review of:**
 - » Allow for electronic recordkeeping and centralized storage
 - » Harmonization of EPCRA Tier II reporting
 - » Single-point submission of EPCRA data
 - » RCRA Electronic Manifesting

■ E-manifesting: reducing burden

- » EPA wants to host nation-wide online manifest system
- » Still would have option to use paper form
- » Real-time tracking of waste shipments
- » EPA made budget request in FY 2012 to develop system
- » Contingent on congressional approval of EPA's authority to collect user fees

■ NSPS Reviews and Revisions: Updating Technology

- » EPA to set priorities for which NSPS to review
- » Criteria for review: meaningful improvement in air quality/public health (based on improvements in technology)
- » Timing: EPA to issue ANPR some time this Fall outlining approach

■ Water Quality Trading

- » EPA will review the 2003 Water Quality Trading Policy and possibly increase market-based approaches to pollution reduction
- » Considering storm water trading – significant potential for trading allowances
- » Workshop in 2012 to solicit ideas from the public, particularly ways to reduce barriers to trading

■ PCB Reforms

- » EPA will examine existing PCB guidance and regulations to harmonize regulatory requirements related to harmful PCB uses and PCB cleanup
- » PCB cleanup program may create barriers to timely cleanup of sites contaminated with PCBs -- EPA trying to improve regulations for quicker and more effective clean up
- » EPA will review no earlier than 2013

■ Industrial, Commercial, and Institutional Boilers

- » EPA finalized rule in March 2011 and simultaneously granted reconsideration
- » EPA stayed rule in May 2011
- » Reconsideration notice expected this Fall
- » Final decision on reconsideration expected next Spring

■ National Ambient Air Quality Standards

- » 2013 Ozone Review
 - Proposed rule by October 2013
 - Final review by 2014
- » Implementation of 2008 standard
 - 0.075 ppm
 - 52 areas with monitors above; many more areas contributing
 - Finalize designations by mid-2012
 - States then get 3 years to develop SIPS

■ National Ambient Air Quality Standards

» PM_{2.5}:

- EPA promulgated final particulate matter (“PM”) NAAQS in October 2006. These standards maintained the 1997 PM_{2.5} primary and secondary annual standards at 15 micrograms/cubic meter (“ug/m³”), but substantially increased the stringency of the PM 2.5 daily standards.
- In the same rulemaking, EPA also maintained the “coarse” PM₁₀ daily standard at the level previously established (150 ug/m³), but revoked the PM₁₀ annual standard
- EPA initiated another five-year review of the PM NAAQS almost immediately following finalization of the 2006 standards
- EPA expected to propose a revised NAAQS in 2012 and a final rule in 2013

■ SO₂ and NO₂ Secondary NAAQS

- » EPA is under consent decree to finalize new secondary standards for sulfur dioxide (SO₂) and nitrogen dioxide (NO₂) by March 2012
- » EPA had considered setting new secondary standards on the basis of: (1) direct effects on vegetation from exposure to gaseous SO₂ and NO₂; and (2) effects from the deposition of oxides of sulfur and nitrogen on sensitive ecosystems and waterbodies (e.g., acid rain, effects on nutrients in soils)
- » On August 1st, however, EPA proposed to *retain* the current SO₂ and NO₂ secondary NAAQS for direct effects on vegetation and set a secondary NAAQS for water and land deposition at the level of the current primary SO₂ and NO₂ standards. Comment period closes Sept. 30th
- » EPA will also undertake new field studies to gather additional data on the protectiveness of current standards and how a new NAAQS measurement – focused on water deposition – could work

■ Greenhouse Gas Regulations

- » EPA's suite of GHG rules are being litigated
 - Endangerment finding; Tailpipe Rule; Johnson Memo; Tailoring Rule
- » Decisions likely by next spring

■ GHG NSPS for Utilities

- » EPA agreed to propose by July 2011 and finalized by May 2012
- » EPA missed initial deadline for powerplant proposal and on September 15th announced it propose new deadline "soon"
- » Likely next year

■ In-Use Emissions Testing for Nonroad Diesel Engines

- » Manufacturer-run, in-use emission testing program for 2013 and beyond
- » Assess in-use compliance with applicable emission standards
- » EPA expects to issue proposal by April 2012

■ Stormwater Regulations

- » Chesapeake Bay settlement agreement
- » Establish requirements of, at a minimum, managing stormwater discharges from newly developed or re-developed sites
- » NPRM expected by end of 2011
- » Final action September 2012

■ Electronic Reporting of TRI Data

- » By the end of the year, EPA expected to propose that all TRI data be filed electronically using TRI-MEweb
- » EPA believe such reporting more efficient and improves accuracy

- **Questions**