

Air Quality Committee Newsletter

Vol. 17, No. 3

June 2014

MESSAGE FROM THE COMMITTEE CHAIR

Gale Lea Rubrecht
Jackson Kelly PLLC
galelea@jacksonkelly.com

By the time you read this message, the ABA year will be more than half over, and your committee vice chairs and I will be into the home stretch of our terms. This newsletter makes issue no. 3, and we hope to publish another issue before our terms end. We continue to keep you updated on air quality developments and Section events and activities via our committee Web site, list serve, and social media. We have also been hard at work on programs. In this message, I discuss ideas for air quality programs for the 44th Spring Conference in San Francisco in March 2015 and review recent air quality programs. For those of you asking how you might become involved, I refer you to my message in the March 2014 issue of our committee newsletter.

Planning for Conference Programs: Program planning for the 44th Spring Conference in San Francisco in March 2015 has begun. The Section kicked off the planning process with “brainstorming” conference calls to identify hot topics. Program vice chairs, committee chairs, and others were invited to join Howard Kenison, Program chair for the 44th Spring Conference, for three conference-planning calls to brainstorm and propose panel topics, speakers, and formats. The first call covered environmental topics, the second call energy and resources topics, and the third call cross practice topics. Shannon Broome, Air

Quality Committee vice chair for Programs, and I participated in the first call. Hot air quality topics identified included the implications of the U.S. Supreme Court’s anticipated decisions in the cross-state air pollution rule (CSAPR) litigation, *EPA v. EME Homer City Generation, LP*, and *American Lung Association v. EME Homer City Generation, LP*, Nos. 12-1182 and 12-1183 (argued Dec. 10, 2013) [Ed. note: The Supreme Court issued its decision in this case on April 29, 2014. *See infra* at page 4 for a discussion of the decision.]; and the greenhouse gas (GHG) rules litigation, *Utility Air Regulatory Group v. EPA*, No. 12-1146 (argued Feb. 24, 2014); the upcoming EPA proposal for carbon pollution standards for existing power plants and proposed residual risk and technology review for petroleum refineries; the implications of the D.C. Circuit’s decision in the mercury and air toxics standards (MATS) litigation, *White Stallion Energy Center, LLC v. EPA*, Lead Case No. 12-1100 (D.C. Cir. Apr. 15, 2014); and facility siting and permitting considerations in light of EPA’s continued strengthening of the National Ambient Air Quality Standards (NAAQS). If you have suggestions for topics, speakers, or formats for the 44th Spring Conference or other conference programs, contact committee vice chairs for Programs, Marty Booher, Shannon Broome, and Jocelyn Thompson, or me.

Webinars and Committee Conference Calls: Last December, I sent out a call for your ideas for air

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Randy Dann and
Thomas G. Echikson, Editors

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**AMERICAN BAR ASSOCIATION
SECTION OF ENVIRONMENT,
ENERGY, AND RESOURCES**

CALENDAR OF SECTION EVENTS

June 24, 2014
Bankruptcy Considerations for the Oil and Gas Industry
Live Webinar
Primary Sponsor: Section of Litigation

July 15, 2014
Renewable Energy Development and Endangered Species: Friends or Foes?
Live CLE Webinar

August 7-8, 2014
26th Annual Environmental Superconference
Austin, TX
Primary Sponsor: State Bar of Texas,
Environmental and Natural Resources Law Section

August 7-12, 2014
ABA Annual Meeting
Sheraton Boston Hotel
Boston, MA

August 13, 2014
Hot Topics in Superfund and RCRA
Live CLE Webinar

August 21-22, 2014
9th Annual Homeland Security Law Institute
Washington, DC
Primary Sponsor: Section of Administrative Law &
Regulatory Practice

October 8-11, 2014
22nd Fall Conference
Trump National Doral Miami
Miami, FL

**For full details, please visit
www.ambar.org/EnvironCalendar**

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quality topics for webinars that could be cosponsored by the committee and the Air & Waste Management Association (A&WMA). You responded, and I thank you. As a result, we are working with the A&WMA to offer a joint conference on the NAAQS this summer and a webinar on condensables and fine particulate matter (PM_{2.5}). The conference on the NAAQS will likely cover air quality monitoring and permitting under the revised NAAQS (SO₂, NO₂, and PM) and implementation of the 2010 1-hour SO₂ NAAQS and the next ozone NAAQS. Glenn Unterberger has volunteered to work with the A&WMA to help organize the NAAQS conference. Marty Booher, vice chair for Programs, is working on a webinar on EPA's anticipated Petroleum Refineries MACT—Residual Risk and Technology Standards. We also plan to have committee conference calls on the D.C. Circuit's decision in the MATS litigation and the U.S. Supreme Court's anticipated decision in the CSAPR litigation. Earlier, we had a joint committee conference call with the Climate Change, Sustainable Development, and Ecosystems (CCSDE) Committee on EPA's carbon pollution standards for new power plants. We plan to have another joint committee conference call with the CCSDE Committee after EPA issues its carbon pollution standards for existing power plants.

On January 31, 2014, the Air Quality Committee cosponsored a one-day conference along with the Environmental Law Institute (ELI), Edison Electric Institute, and SEER CCSDE on Clean Air Act section 111(b) and (d) and EPA's proposed performance standards for greenhouse gas emissions from new power plants and anticipated rulemaking for existing power plants in Washington, D.C. In February, the Air Quality Committee cosponsored a webinar on *UARG v. EPA* and a debriefing on the oral arguments in the GHG cases. On April 29, 2014, the Air Quality Committee cosponsored a program along with the D.C. Bar and ELI on section 112(r) of the Clean Air Act titled "Preparing for the Worst After West: How Lawyers Can Prepare for and Handle High-Profile Industrial Accidents."

If you would like to help organize a webinar or committee conference call or if you have recommendations for speakers, moderators, or other

topics for a webinar, or committee conference call, please contact committee vice chairs for Programs, Marty Booher, Shannon Broome, and Jocelyn Thompson, or me.

Feel free to send comments or ideas for the committee to me. You may access my contact information at my ABA profile. I hope to meet many of you in 2014.

Upcoming Events: The 22nd Fall Conference, chaired by Air Quality Committee member John Jacus, will be held at the Trump National Doral Golf Resort & Spa in Miami, Florida, on October 8–11, 2014. The 44th Spring Conference will be in San Francisco, and the 2015 Fall Conference will be in Chicago. Watch for further details on the Section Web site, Twitter, Facebook, and via Section e-mail.

2013–2014 Air Quality Committee Leadership

Committee Chair: Gale Lea Rubrecht (galelea@jacksonkelly.com)

Membership: Phil Bower (pbower@whdlaw.com)

Social Media: Cheri Budzynski (CBudzynski@slk-law.com)

Electronic Communications (formerly Technology): Michael Balster (michaelbalster@paulhastings.com)

Programs:
Marty Booher (mbooher@bakerlaw.com)
Shannon Broome (shannon.broome@kattenlaw.com)
Jocelyn Thompson (Jocelyn.thompson@alston.com)

At-large vice chair for Programs and Public Service:
Howard Hoffman (howardjhoffman@gmail.com).

Publications: Linda Tsang (Linda_Tsang@afandpa.org)

Public Service: Heidi Knight (hknight@bdlaw.com)

Newsletter:
Radcliffe Dann IV (randy.dann@dgsllaw.com)
Thomas G. Echikson (Thomas.echikson@leclairryan.com)

The Year in Review: Jonathan Martel (Jonathan_Martel@aporter.com)

GUEST ARTICLE: CASE NOTE: *EPA V. EME HOMER CITY GENERATION*

John Robinson Jr., J.D. Candidate,
University of Utah College of Law

Introduction

On April 29 the U.S. Supreme Court issued its decision in *EPA v. EME Homer City Generation*. The case involves the Environmental Protection Agency's (EPA) most recent effort to address cross-state air pollution through promulgation of the Transport Rule. The Court voted 6-2 (Justice Alito took no part), reversing a split D.C. Circuit ruling that had vacated the rule. Although this case contains some interesting questions about jurisdiction and the timing of interactions between the federal government and the states under cooperative federalism, this case note addresses only the Court's holding regarding the substance of the Transport Rule itself.

Background

The Transport Rule at issue in this case is EPA's third attempt to implement the Clean Air Act's Good Neighbor Provision, which Congress originally passed in 1977. As amended in 1990, the statute requires upwind states to prohibit the "amounts" of emissions that "contribute significantly" to a downwind state's ozone or PM_{2.5} nonattainment designation. The core question in this case is whether EPA can use costs to determine what it means to be "significant" under the statute.

In the Transport Rule, EPA uses a two-step analysis to determine what upwind emissions to prohibit. First, the agency screens out those upwind states whose emissions do not contribute at least 1 percent toward a downwind state's nonattainment. Second, EPA calculates the volume of emissions that each upwind state could eliminate at various cost thresholds (measured as a dollars-per-ton of pollution eliminated).

Taking that data, the Transport Rule assigns emissions budgets to upwind states based on the cost-effectiveness of pollution reduction, but not necessarily

in proportion to that state's percentage-based contribution to the downwind pollution. Thus, the Transport Rule could require a given upwind state to reduce emissions by more than its "fair share" in a strictly proportional sense if it were comparatively cheaper for that state to do so. The D.C. Circuit vacated the rule because it might implement such overcontrol. According to the circuit, the Good Neighbor Provision demands a strictly proportional approach to emission reduction; cost consideration is not allowed.

Holding

The Court, using very deferential language, found that the Transport Rule is a valid exercise of EPA authority to gap-fill under *Chevron*. Indeed, the Court saw significant overlap between EPA's regulatory implementation of "source," at issue in *Chevron* itself, and its implementation of "contribute significantly" in the Transport Rule. Accordingly, "the Good Neighbor Provision delegates authority to EPA at least as certainly as the CAA provisions involved in *Chevron*." *EME Homer*, 572 U.S. ____ (2012) (slip op. at 21).

In support of its conclusion, the Court focused on the language of the statute itself and on the practical necessity of non-proportional approach to emissions reduction. First, rejecting the D.C. Circuit's holding, the Court determined that the statute's simple Good Neighbor language is silent on how specifically to divide responsibility among upwind states. Therefore, the statute is ambiguous and EPA may select "from among reasonable options" (implicitly moving to *Chevron*, step 2). *Id.* at 22. The Court reasoned that choosing to reduce the easier (i.e., less costly) pollution was reasonable—"an efficient and equitable solution to the allocation problem the Good Neighbor Provision requires the Agency to address." *Id.* at 26. The Court also found that the D.C. Circuit's proportional approach was not as workable as EPA's approach in any case.

Conclusion

This was EPA's third attempt to regulate interstate PM_{2.5} and ozone, pollutants that account for about 6

percent of total deaths in the continental United States. 76 Fed. Reg. 48,207, 48,309 (Aug. 8, 2011). According to EPA estimates, the rule will reduce between 13,000 and 34,000 PM_{2.5}-related deaths per year. *Id.* The rule also stands to affect around 1000 power plants in the eastern United States—the added cost pressures may negatively alter the viability of aging coal plants particularly. Finally, it is possible that the Court’s reasoning, leading to regulatory leeway when addressing complex air pollution issues, will bolster EPA’s position in *Utility Air Regulatory Group v. EPA* (the greenhouse gases case).

EPA HEADQUARTERS

Gale Lea Rubrecht
Jackson Kelly PLLC
Charleston, West Virginia

National Ambient Air Quality Standards (NAAQS)

1. Lead NAAQS: On February 25, 2014, EPA published a final rule finding that Pennsylvania has not submitted state implementation plans (SIPs) for three nonattainment areas in Berks and Beaver Counties for the 2008 lead NAAQS. 79 Fed. Reg. 10,391. The three nonattainment areas are the Lyons and North Reading nonattainment areas in Berks County (Philadelphia) and the Lower Beaver Valley nonattainment area in Beaver County (Pittsburgh). The SIPs were due June 30, 2012. EPA’s finding of failure to submit starts the 18-month emission offset sanctions clock, the 24-month highway funding sanctions clock, and the 24-month clock for promulgation by EPA of a federal implementation plan. The final rule took effect February 25, 2014.

2. Nitrogen Dioxide (NO₂) NAAQS: On March 12–13, 2014, the Clean Air Scientific Advisory Committee (CASAC) Oxides of Nitrogen Primary National Ambient Air Quality Standards (NAAQS) Review Panel held a public meeting to peer review EPA’s *Integrated Science Assessment (ISA) for Oxides of Nitrogen—Health Criteria (External Review Draft—November 2013)* and *Integrated Review*

Plan for the Primary National Ambient Air Quality Standards for Nitrogen Dioxide (External Review Draft) (draft IRP). See 79 Fed. Reg. 8701 (Feb. 13, 2014). The draft IRP (available at http://www.epa.gov/ttn/naaqs/standards/nox/data/20140200_draft_irp_no2_naaqs.pdf) sets forth EPA’s anticipated schedule for the current NO₂ NAAQS review as follows: final Integrated Review Plan—June 2014; final Integrated Science Assessment—February 2015; CASAC consultation/public review of Risk/Exposure Assessment Planning Document—October 2014; final Policy Assessment—April 2016; proposed NO₂ NAAQS—September 2016; and final NO₂ NAAQS—June 2017. Comments on the draft IRP were due March 13, 2014. 79 Fed. Reg. 7184 (Feb. 3, 2014).

3. Ozone NAAQS: On March 25–27, 2014, the CASAC Ozone Review Panel held a public meeting to peer review the following three draft EPA documents: (1) *Health Risk and Exposure Assessment for Ozone—Second External Review Draft* (Jan. 2014); (2) *Welfare Risk and Exposure Assessment for Ozone—Second External Review Draft* (Jan. 2014); and (3) *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards—Second External Review Draft* (Jan. 2014). Comments on all documents were due March 24, 2014. 79 Fed. Reg. 4693, 4694 (Jan. 29, 2014).

4. Sulfur Dioxide (SO₂) NAAQS: In March 2014, EPA made available for public review the draft *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Sulfur Dioxide* (draft IRP). The draft IRP (available at <http://www.epa.gov/ttn/naaqs/standards/so2/data/20140318so2reviewplan.pdf>) sets forth EPA’s anticipated schedule for the current SO₂ NAAQS review as follows: final Integrated Review Plan—July 2014; final Integrated Science Assessment—January 2016; CASAC consultation/public review of Risk/Exposure Assessment Planning Document—March 2015; final Policy Assessment—December 2016; proposed SO₂ NAAQS—May 2017; and final SO₂ NAAQS—February 2018. Comments on the draft IRP were due April 17, 2014. 79 Fed. Reg. 14,035.

Woodstove New Source Performance Standards (NSPS): On February 3, 2014, EPA published a proposed rule proposing to amend the standards of performance for new residential wood heaters and to add two new subparts: Standards of Performance for New Residential Hydronic Heaters (also called indoor and outdoor wood heaters or wood boilers) and Forced-Air Furnaces, subpart QQQQ, and Standards of Performance for New Residential Masonry Heaters, subpart RRRR. 79 Fed. Reg. 6330. The proposed rule, titled “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic and Forced-Air Furnaces, and New Residential Masonry Heaters,” would affect manufacturers, owners, operators, and testers of wood heaters, pellet heaters/stoves, hydronic heaters, forced-air furnaces, and masonry heaters. The proposal would update particulate matter (PM) emission limits, expand the applicability of the existing regulations beyond adjustable burn-rate woodstoves to include other residential wood combustion devices, strengthen test methods, and streamline the certification process. EPA held a public hearing on the proposed rule on February 26, 2014. Comments were due May 5, 2014.

EPA’s existing regulations for wood heaters were promulgated in 1988 and apply to adjustable burn-rate woodstoves. The proposed amendments to the NSPS for new residential heaters (40 C.F.R., pt. 60, subpt. AAA) would apply updated emission limits that reflect the current best systems of emission reduction (BSER) and would broaden the applicability of the wood heaters regulation beyond adjustable burn-rate wood heaters to include single burn-rate wood heaters/stoves, pellet heaters/stoves, and any other “room heater” as defined in the proposed subpart AAA.

EPA is proposing to make a single determination of BSER for both catalytic and non-catalytic heater systems. Also, EPA is not proposing catalyst replacement on a regular schedule due to difficulty in enforcing such a requirement. Instead, manufacturers would provide warranties on the catalysts and prohibit the operation of catalytic heaters/stoves without a catalyst. In addition, EPA is proposing to require warranties for non-catalytic heaters/stoves. EPA is not

proposing efficiency standards but is proposing to require testing and reporting of these data.

To determine compliance, EPA is proposing a two-step approach that would apply to all new adjustable burn-rate wood heaters, single burn-rate wood heaters, and pellet heaters/stoves beginning in 2015. Under this proposed two-step approach, Step 1 emission limits for these sources would apply to each source (a) manufactured on or after the effective date of the final rule or (b) sold at retail on or after the date six months from the effective date of the final rule. Step 2 emission limits for these sources would apply to each adjustable burn-rate wood heater, single burn-rate wood heater, and pellet heater/stove manufactured or sold on or after the date five years after the effective date of the final rule.

EPA is proposing to require emission testing and reporting based on both crib wood and cordwood for Step 1 compliance, and allowing manufacturers to choose whether to certify with crib wood or cordwood for Step 1 upon the effective date of the final rule. For Step 2 compliance five years after the effective date of the final rule, EPA would require certifying with only cordwood. “Crib wood” is a specified configuration and quality of dimensional lumber and spacers that were intended to improve the repeatability of the test method in 1988. “Cordwood” is a different specified configuration and quality of wood that more closely resembles what a typical homeowner would use.

EPA is also asking for comments on a three-step compliance approach over an eight-year period. Under this alternative approach, Step 1 emission limits would apply to each source: (a) manufactured 60 days after the final rule is published in the *Federal Register*, or (b) sold at retail on or after the date six months from the effective date of the final rule, i.e., 60 days after the final rule is published in the *Federal Register*. Step 2 emission limits would apply to each source manufactured or sold on or after the date three years after the effective date of the final rule. Step 3 emission limits would apply to each source manufactured or sold on or after the date eight years following the effective date of the final rule, providing five years between Step 2 and Step 3.

Unlike the current woodstove NSPS, the proposed rule does not include an additional one-year compliance extension for low-volume manufacturers.

PM emission limits that would apply to each new wood heater appliance under the proposed two-step approach and alternative three-step approach are set forth in the proposed rule. 79 Fed. Reg. at 6339. For example, new adjustable burn-rate wood heaters, single burn-rate wood heaters, and pellet heaters/stoves, under the proposed two-step approach, would have to meet PM emission limits of 4.5 grams per hour (g/hr) upon the effective date of the final rule and 1.3 g/hr five years after the effective date of the rule. Under EPA's current rule, the limits are 7.5 g/hr for non-catalytic stoves and 4.1 g/hr for catalytic stoves.

In addition to PM emissions limits, EPA is proposing to continue the requirement in the 1988 NSPS that the owner or operator must operate the heater consistent with the owner's manual and not burn improper fuels; and that manufacturers typically void their warranties in cases of improper operation. Due to insufficient data, EPA is not proposing a separate carbon monoxide (CO) emission standard but is proposing to require that the manufacturer determine CO emissions during the compliance test and report those results to EPA.

The proposed rule does not include any requirements associated with wood heaters or other wood-burning appliances that are in existence or already in use. Nor does it include any requirements for heaters fired solely by gas, oil, or coal. Further, the proposal would not apply to outdoor fireplaces, pizza ovens, barbecues, fire pits, or chimneys. EPA did not include indoor fireplaces in the proposed rule but is taking comment on this issue. The proposed rule would also amend the definition of "cook stoves" and add definitions for "camp stoves" and "traditional Native American bake ovens" to clarify that they would be subject only to labeling requirements.

For heaters and model lines manufactured since 1988 and before the effective date of the final NSPS, EPA is proposing a transition period. The current emission limits would remain in effect for such heaters and model lines until their current certification expires (maximum of five years) or is revoked. After expiration

or revocation of the current certification, these heaters and other new heaters would have to meet the updated emission standards.

Like the current woodstove NSPS, EPA is proposing to require manufacturers to submit certifications of compliance with the proposed NSPS for all models and units. Certification would be determined based on testing of a representative unit within the model line. The proposal would expand the certification process to include laboratories accredited by a nationally recognized accrediting body such as the International Organization for Standardization (ISO) as well as EPA-approved certifying bodies. The proposal would require a "Certifying-Body-Based Certification Process" 60 days after publication of the final rule in the *Federal Register*. Under this process, after testing is complete, the certifying body with whom the manufacturer has entered into contract for certification services would issue a certification of conformity with the PM emissions standards. The certification body would have to be accredited under ISO-IEC (International Electrotechnical Commission) Standard 17065, register its credentials with EPA, receive EPA approval before conducting any certifications or related work used as a basis for compliance, and report any changes in its accreditation and any deficiencies found under ISO 17065. EPA would oversee the certification body's work and retain the right to revoke the approval if appropriate. Upon review of the test report and quality control plan submitted by the manufacturer, the certifying body would certify compliance if appropriate and submit the required documentation to EPA's Office of Enforcement and Compliance Assurance for review, approval, and listing of the certified appliance.

Each affected unit would be required to have an applicable permanent label and have an owner's manual that contains specified information. Permanent labels would be required for each affected unit 60 days after the final rule is published in the *Federal Register*. EPA proposes to clarify that the permanent label must be installed so that it is readily visible both before and after the unit is installed. In addition, EPA is proposing to remove the requirement for temporary labels on certified heaters.

The proposal would continue the quality assurance provisions in the current 1988 NSPS. A model line must be recertified whenever any change is made in the original design that could affect the emissions rate for that model line or when any of several specified tolerances of key components are changed. A Certifying-Body-Based Quality Assurance program would supersede the 1988 requirements for manufacturer quality assurance programs. The proposal would not require retesting for models that are certified prior to the effective date of the final rule until the certification expires or is revoked. The certifying body would conduct regular unannounced audits to ensure that the manufacturer's quality control plan is being implemented properly. EPA's audit testing programs of the 1988 NSPS would be maintained but streamlined and simplified. The proposal clarifies that audits can be based on any available information and do not have to be statistically random. Also, the proposal clarifies that EPA and states are allowed to be present during the audits.

For new central heaters, including wood-fired residential hydronic heaters and forced-air furnaces, EPA is proposing a new subpart, QQQQ, which would apply to each affected unit manufactured or sold on or after April 4, 2014. Step 1 PM emission limit for residential hydronic heaters and forced-air heaters would apply 60 days after publication of the final rule in the *Federal Register*, and Step 2 PM emission limit for residential hydronic heaters and forced-air heaters would apply five years later. For hydronic heaters, EPA is proposing a limit of 0.32 pounds of PM per million British thermal unit (lb/mmBtu) heat output, with a cap of 7.5 g/hr for individual test runs under Step 1 and a PM limit of 0.60 lb/mmBtu heat output under Step 2. EPA is also taking comment on phasing in the limits in three steps over an eight-year period. Under this approach, hydronic heaters would be required to meet an interim emissions limit of 0.15 lb/mmBtu heat output three years after the rule is published in the *Federal Register*.

For new forced-air furnaces, EPA is proposing PM emission limits of 0.93 lb/mmBtu heat output with a cap of 7.5 g/hr for individual test runs under Step 1 and PM emission limits of 0.06 lb/mmBtu heat output

under Step 2. Under the alternative phased-in approach over eight years, new forced-air furnaces would have the same interim emissions limit as for hydronic heaters.

In proposed subpart QQQQ, EPA is not proposing a standard for CO or efficiency but is proposing to require manufacturers to collect and report CO emissions and efficiency data during certification tests. Subpart QQQQ would not provide an additional time period for the sale of unsold units manufactured before the compliance date, nor would it include a small volume manufacturer compliance extension. The proposed provisions would include a list of prohibited fuels, a prohibition on operating the hydronic heater or forced-air furnace in a manner that is inconsistent with the owner's manual, a requirement to use only certified pellet fuels in pellet-fueled appliances, and labeling and owner's manual requirements. Testing, certification, and quality assurance requirements would be similar to the proposed revisions to subpart AAA.

For new residential masonry heaters, EPA is proposing a new subpart, RRRR, which would apply to each affected unit manufactured on or after April 4, 2014. Sixty days after the final rule is published in the *Federal Register*, the proposed provisions would prohibit the manufacture or sale of a residential masonry heater that does not meet the proposed PM emission limit of 0.32 lb/mmBtu. EPA is not proposing efficiency or CO standards for new residential masonry heaters at this time due to insufficient data.

Compliance deadlines for masonry heaters would be based upon production level. For companies that construct fewer than 15 masonry heaters per year, EPA is proposing a five-year small-volume manufacturer compliance extension.

EPA is proposing to rely on ASTM test method E2817-11 for masonry heaters, or as an alternative to performance testing, EPA is proposing that manufacturers of masonry heaters may choose to submit a computer model simulation program. The proposed subpart RRRR would require certification similar to revised subpart AAA. The proposed subpart RRRR also contains similar quality assurance

requirements as subpart AAA for labels, owner's manual, etc., except for small custom unit manufacturers, EPA is requiring less stringent quality control (QC) procedures. EPA is proposing that the initial certification for these custom units is sufficient and that no further QC is necessary since each unit is a unique model and subject to certification.

Regarding air quality impacts, EPA estimates that over the 2014–2022 time frame implementation of the NSPS would reduce emissions of fine particulate matter (PM_{2.5}) by 4625 tons per year (tpy) or 80 percent, volatile organic compounds (VOC) by 3237 tpy or 76 percent, and carbon monoxide (CO) by 32,559 tpy or 72 percent. These estimates include emissions only during the first year of the life of each wood heater. In addition, these estimates do not include emission impacts from masonry heaters because EPA lacks sufficient data. In addition, EPA states that the proposed rule would also reduce hazardous air pollutants (HAPs) (e.g., benzene and formaldehyde) and climate-forcing emissions (e.g., methane and black carbon).

EPA estimates net benefits to be \$1.8 billion to \$4.1 billion annually at a 3 percent discount rate and \$1.7 billion to \$3.7 billion annually at a 7 percent discount rate. These benefits reflect human health benefits associated with reducing exposure to PM_{2.5} through reductions of PM_{2.5} precursors, such as NO_x and directly emitted PM_{2.5}. According to EPA, the non-monetized benefits include 33,000 tons of CO reductions; 3200 tons of VOC reductions; reduced exposure to HAP, including formaldehyde, benzene, and polycyclic organic matter; reduced climate effects due to reduced black carbon emissions; reduced ecosystem effects; and reduced visibility impairments. The emission reductions and monetized benefits for masonry heaters are not included in these figures.

EPA estimates the total annualized average nationwide costs to manufacturers to be \$15.7 million (2010 dollars) for 2014–2022 and \$7.5 million (2010 dollars) for 2013–2038. These costs to manufacturers assume no pass-through to consumers. In addition to estimating the costs to manufacturers, EPA also estimates an increase in price of each affected unit. These unit cost impacts are summarized in table 10 of

the proposed rule and range from \$24 for certified wood heaters and pellet heaters/stoves to \$6458 for hydronic heating systems.

Stratospheric Ozone: On March 7, 2014, EPA published a proposed rule proposing uses that qualify for the critical use exemption (CUE) and the amount of methyl bromide, an odorless, colorless toxic gas used as a pesticide, that may be produced or imported for those uses for both the 2014 and 2015 control periods. 79 Fed. Reg. 13,006. Comments were due April 21, 2014. Affected entities include producers, importers, and exporters of methyl bromide; applicators and distributors of methyl bromide; and users of methyl bromide that applied for the 2014 and 2015 critical use exemption including growers of vegetable crops, fruits, and nursery stock, and owners of stored food commodities and structures such as grain mills and processors.

The United States phased out production and imports of methyl bromide in January 2005, except for allowable exemptions such as critical use exemptions agreed to by the Montreal Protocol parties. Under the protocol, “a use of methyl bromide should qualify as ‘critical’ only if the nominating Party determines that: (i) the specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and (ii) there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and public health and are suitable to the crops and circumstances of the nomination.”

EPA is proposing to modify its regulations to reflect the internationally agreed critical uses for 2014 of commodities, mills and food processing structures, cured pork, and strawberry fields; and the internationally agreed critical uses for 2015 of cured pork and strawberry fields. For 2014, EPA is proposing to remove the following sectors or users: Georgia growers of cucurbits, eggplants, peppers, and tomatoes; orchard replant for California wine grape growers; and Florida growers of eggplants, peppers, and tomatoes. EPA states that the U.S. government concluded that the following sectors did not meet the

criteria for a CUE: the California Association of Nursery and Garden Centers; California stone fruit, table and raisin grape, walnut, and almond growers; ornamental growers in California and Florida; California strawberry nurseries; stored walnuts; and the U.S. Golf Course Superintendents Association. For 2015, EPA is proposing to remove the following: California wine grape growers; Florida growers of eggplants, peppers, tomatoes, and strawberries; rice millers; pet food manufacturing facilities; members of the North American Millers Association; California entities storing walnuts, dried plums, figs, and raisins; and entities storing dates. EPA is not proposing to authorize critical use for the following sectors that have applied for the exemption: Michigan cucurbit, eggplant, pepper, and tomato growers; Florida eggplant, pepper, tomato, and strawberry growers; the California Association of Nursery and Garden Centers; California stone fruit, table and raisin grape, walnut, and almond growers; ornamental growers in California and Florida; the U.S. Golf Course Superintendents Association; and stored walnuts, dried plums, figs, and raisins in California.

For critical use amounts, EPA is proposing to allocate allowances to exempt 442,337 kg of new production and import of methyl bromide for critical uses in 2014 and 376,900 kg of new production and import for 2015. EPA is proposing to find 0 percent of existing stocks of 627,066 kg available for critical users in 2014 and 2015 but is taking comment on finding 5 percent of existing inventory available. Regarding any carryover material, EPA is proposing to apply the carryover deduction of 0 kg to the new production amount for 2014. EPA states it anticipates that for 2015 the carryover will remain 0 kg but will calculate the actual carryover amount based on updated data in the final rule. Because EPA is taking comment on finding 5 percent of existing inventory to be available, EPA is also taking comment on an allocation of 410,984 kg and 345,547 kg for 2014 and 2015, respectively.

EPA REGIONAL REPORTS

EPA REGION 1

Dixon Pike and Brian Rayback
Pierce Atwood, LLP
Portland, Maine

Regional Greenhouse Gas Initiative (RGGI)

On January 13, 2014, the nine states participating in RGGI announced that the 2014 RGGI CO₂ cap is 91 million tons. This represents a 45 percent reduction to the cap. In addition, the cap will decline 2.5 percent each year from 2015 to 2020. By 2020, power plant CO₂ pollution in the nine RGGI states is projected to be half of 2005 levels. The press release can be found at http://www.rggi.org/docs/PressReleases/PR011314_AuctionNotice23.pdf.

On March 7, 2014, RGGI announced that 23,491,350 CO₂ allowances were sold at auction at a clearing price of \$4. Allowances sold include the 18,491,350 allowances offered for sale by the nine states and all of the 5,000,000 allocation year 2014 cost containment reserve allowances. Bids for the CO₂ allowances ranged from \$2 to \$11.85 per allowance. The press release can be found at http://www.rggi.org/docs/Auctions/23/PR030714_Auction23.pdf.

Connecticut

EPA is approving negative declarations for hospital/medical/infectious waste incinerators (HMIWI) for Connecticut. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06375.pdf>.

Maine

EPA is approving negative declarations for sewage sludge incinerators for Maine. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06375.pdf>.

The Maine Department of Environmental Protection (MEDEP) is proposing amendments to its motor vehicle fuel volatility limit regulations to eliminate the requirement that gas stations in southern Maine sell

boutique 7.8 RVP fuel during summer months. The rulemaking notice can be found at <http://www.maine.gov/tools/whatsnew/attach.php?id=614292&an=1>.

MEDEP is proposing to amend its rule for control of volatile organic compounds (VOCs) from adhesives and sealants to delay compliance requirements for single-ply roof membrane installation or repair adhesives, single-ply roof membrane sealants and single-ply roof membrane adhesive primers until January 1, 2016, to align compliance requirements with those in New Hampshire to address cross-border sales issues. The rulemaking notice can be found at <http://www.maine.gov/tools/whatsnew/attach.php?id=615046&an=1>.

Massachusetts

The Massachusetts Department of Environmental Protection (MassDEP) is proposing to require removal of Stage II vapor recovery systems and the addition of enhancements of Stage I vapor recovery systems at certain gas stations. MassDEP states that it is taking this action because most vehicles are now equipped with onboard refueling vapor recovery so that Stage II systems are no longer providing additional emission reductions, and Stage I system technology has improved to be more effective at capturing vapors. The notice can be found at <http://www.mass.gov/eea/docs/dep/service/regulations/proposed/s2tsd14.pdf>.

MassDEP claims that “Massachusetts is leading the way to a clean energy economy and reaping some of the direct benefits in economic growth through smart policies that reduce greenhouse gas emissions by promoting greater energy efficiency, developing renewable energy, and encouraging other alternatives to the combustion of fossil fuels. The results clearly disprove the myth that environmental protection hinders economic progress.” The article can be found at <http://www.mass.gov/eea/agencies/massdep/news/enews/greenhouse-gas-emissions-and-rggi-success.html>.

New Hampshire

EPA is approving a state implementation plan (SIP) revision submitted by New Hampshire establishing CO

limited maintenance plans for Manchester and Nashua. The New Hampshire Department of Environmental Services (NHDES) will continue year-round CO monitoring at the Londonderry Moose Hill station in Londonderry, with triggers to reestablish CO monitoring sites in Manchester and Nashua if elevated CO levels are recorded there. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-04948.pdf>.

EPA is proposing to approve a SIP revision submitted by the NHDES that requires the decommissioning of Stage II vapor recovery systems at gas stations by December 22, 2015. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-04950.pdf>.

EPA is approving negative declarations for HMIWI for New Hampshire. EPA is also approving the withdrawal of a previously approved state plan for HMIWI in New Hampshire. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06375.pdf>.

Rhode Island

EPA is making technical corrections to Clean Air Act Sections 111(d) and 129 State Plan (Negative Declaration) approvals for Other Solid Waste Incinerators for Rhode Island. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06375.pdf>.

On December 16, 2013, the Conservation Law Foundation filed a citizen suit against the Central Landfill alleging releases of landfill gas in violation of the Clean Air Act. The article can be found at <http://www.clf.org/blog/rhode-island/clf-suit-ri-central-landfill/>.

Vermont

EPA is approving negative declarations for sewage sludge incinerators for Vermont. EPA is also making technical corrections to Clean Air Act Sections 111(d) and 129 State Plan (Negative Declaration) approvals for Other Solid Waste Incinerators for Vermont. The *Federal Register* notice can be found at <http://www.gpo.gov/fdsys/pkg/FR-2014-03-25/pdf/2014-06375.pdf>.

EPA REGION 2

Philip E. Karmel
Bryan Cave LLP
New York, New York

Felony Convictions for Emissions from a Pressure Relief Valve Not Identified as Emissions Point in Title V Permit:

On March 13, 2014, the U.S. District Court for the Western District of New York denied a post-trial motion seeking to set aside a jury verdict convicting Tonawanda Coke Corporation and its environmental manager Mark L. Kamholz for violating the Clean Air Act at the company's coke facility. *See* Decision and Order, *United States v. Tonawanda Coke Corp.*, 10-CR-219S (W.D.N.Y. Mar. 13, 2014). Among the counts upon which these defendants were convicted was violation of section 113(c)(1) of the Clean Air Act, which states that “[a]ny person who knowingly violates any requirement or prohibition of . . . section 7661a(a) or 7661b(c) of this title (relating to [Title V] permits) . . . , including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or subchapters, . . . shall, upon conviction, be punished by a fine pursuant to title 18 or by imprisonment for not to exceed 5 years, or both.” 42 U.S.C. § 7413(c). The convictions arose out of emissions from a pressure relief valve that was not listed as an emissions point in the facility's title V permit. According to the court, the key element of this crime is met when “a defendant operated or caused to be operated an emission source in violation of a Title V operating permit requirement.” Decision and Order at 7.

EPA Suspends Many PM₁₀ Nonattainment Area Requirements for Manhattan: EPA has approved a modification to the New York state implementation plan to acknowledge that the borough of Manhattan—although designated as a nonattainment for PM₁₀—has attained the NAAQS for PM₁₀, thereby suspending the requirement that the state of New York submit an attainment demonstration to EPA, impose associated reasonably available control measures, and develop reasonable further progress plans and contingency plans. *See* 78 Fed. Reg. 72,032 (Dec. 2, 2013). According to EPA, Manhattan remains a designated

nonattainment area for PM₁₀ because the area does not have an approved maintenance plan as required by section 175A of the Clean Air Act. *Id.*

NJDEP Held to Have Act Unlawfully in Not Implementing State's CO₂ Budget Trading Program After State's Withdrawal from RGGI:

In May 2011, Governor Chris Christie issued a press release announcing that the state of New Jersey would withdraw from the Regional Greenhouse Gas Initiative (RGGI) capping power plant emissions of carbon dioxide (CO₂) in participating states (CT, DL, ME, MD, MA, NH, NY, RI, and VT). Thereafter, the New Jersey Department of Environmental Protection (NJDEP) failed to administer its regulations establishing a CO₂ budget trading program pursuant to legislation enacted by the state legislature in 2007. On March 25, 2014, the Appellate Division of the Superior Court of New Jersey held that NJDEP must either administer these regulations or repeal them through the rulemaking procedures of the state's Administrative Procedure Act. *In re Regional Greenhouse Gas Initiative*, Docket No. A-4878-11T4 (N.J. Super. Ct., App. Div. Mar. 25, 2014). The court stayed enforcement of the regulations, however, pending further rulemaking by NJDEP. *Id.*

EPA REGION 5

Gary Pasheilich
Squire Sanders (US), LLP
Columbus, Ohio

Indiana

EPA issued proposed and direct final rules to approve revisions to Indiana's air quality state implementation plan (SIP) for the 1997 8-hour ozone maintenance for Allen, Greene, Vanderburgh, Warrick, and Vigo Counties to replace on-road emissions inventories and motor vehicle emissions budgets with inventories and budgets developed using EPA's Motor Vehicle Emissions Simulator emissions model. The direct final rule became effective April 28, 2014, unless EPA

determined that adverse comments required withdrawal of the rule. 79 Fed. Reg. 10,385, 10,447 (Feb. 25, 2014).

EPA issued proposed and direct final rules to approve revisions to the air quality SIP for the 1997 annual fine particulate matter maintenance air quality for the Evansville/Southwestern Indiana area to replace on-road emissions inventories and motor vehicle emissions budgets with inventories and budgets developed using EPA's Motor Vehicle Emissions Simulator emissions model. The direct final rule will be effective May 19, 2014, unless EPA determines that adverse comments require withdrawal of the rule. 79 Fed. Reg. 15,224, 15,281 (Mar. 19, 2014).

Indiana/Ohio

EPA issued a proposed rule to approve portions of the infrastructure SIP revisions submitted by the Indiana Department of Environmental Management and the Ohio Environmental Protection Agency to address the section 110 requirements of the Clean Air Act (CAA) for the 2006 24-hour fine particle NAAQS. The proposed rule approves the portions of the submissions intended to meet the state board requirements of sections 110 and 128 of the CAA. 79 Fed. Reg. 7411 (Feb. 7, 2014).

Illinois

EPA is accepting public comment on proposed permits for a carbon sequestration project that would allow the FutureGen Industrial Alliance Inc. to inject carbon dioxide deep underground near Jacksonville, Illinois. The proposed permits would be the nation's first Class VI underground injection permits for carbon sequestration. EPA is accepting public comments through May 15, 2014, and a public hearing is scheduled on May 7, 2014. For more information, see: <http://yosemite.epa.gov/opa/admpress.nsf/a5792a626c8dac098525735900400c2d/c20dcdf9fe38bc385257cac00725664!OpenDocument>.

On January 16, 2014, emergency rules were filed with the Illinois Pollution Control Board to address regulation of petcoke piles throughout Illinois. Petcoke refining has increased in Indiana due to greater refining

of Canadian crude oil, and has resulted in more being stored particularly at facilities in southeast Chicago. Through the emergency rules, the Illinois EPA is seeking to require the installation of equipment such as wind monitors and dust suppression systems; and plans to address storage issues and ultimately the total enclosure of all coke and coal piles. An estimated 36 facilities will be affected by the emergency rules, which are valid for 150 days. For more information, see: <http://www3.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=29&RecNum=1186>.

Wisconsin

EPA issued a proposed rule to redesignate the Milwaukee-Racine nonattainment area to attainment of the 1997 annual and 2006 24-hour NAAQS for PM_{2.5} and to approve the maintenance plan for the area through 2025. EPA is also approving certain other revisions including NO_x, PM_{2.5}, SO₂, and VOC motor vehicle emission budgets for 2020 and 2025 for the Milwaukee area, and emissions inventories for direct PM_{2.5}, NO_x, SO₂, VOCs, and ammonia for the area.] 79 Fed. Reg. 9134 (Feb. 18, 2014).

EPA issued proposed and direct final rules to approve a SIP revision to establish transportation conformity criteria and procedures related to interagency consultation, as well as the enforceability of certain transportation-related control and mitigation measures. The direct final rule became effective April 28, 2014, unless EPA determined that adverse comments required withdrawal of the rule. 79 Fed. Reg. 11,050, and 79 Fed. Reg. 10,995 (Feb. 27, 2014).



EPA REGION 8

John Jacus, Eric Waeckerlin, and
Mave Gasaway
Davis Graham & Stubbs LLP
Denver, Colorado

Colorado—AQCC Passes Significant New Air Rules for Oil and Gas Operations

Following a yearlong stakeholder process and a five-day hearing in February 2014, the state Air Quality Control Commission (AQCC) passed a much-publicized package of new air quality rules for the oil and natural gas sector in Colorado (available at <http://www.colorado.gov/cs/Satellite/CDPHE-AQCC/CBON/1251647985820>). The rules have been characterized as the first-ever direct regulation of methane (a greenhouse gas) by a state regulatory agency for the upstream oil and natural gas sector. While the rules include significant new standards governing all “hydrocarbons,” including methane, they are much broader in scope than just methane regulation. Perhaps most notably, the rules apply to qualifying facilities statewide as opposed to just the Denver Metropolitan Area/North Front Range 8-hour ozone nonattainment area, which had been the primary focus of regulatory efforts in recent years.

For their part, the methane-specific regulations are contained largely in the leak detection and repair (LDAR) provisions of the rules. These LDAR requirements apply to all well production facilities and many compressor stations statewide. The LDAR program requires instrument-based (i.e., infrared camera) inspections at various frequencies depending on the size of the facility. In addition to the instrument-based inspections, operators are required to perform monthly audio, visual, and olfactory (AVO) inspections, as well as repair, re-monitoring, and record keeping and reporting.

The new rules will also impose control requirements and standards on storage tanks that are much more stringent than the federal New Source Performance Standards (NSPS), codified at 40 C.F.R. part 60, subpart OOOO. These include a lowering of the

volatile organic compound (VOC) applicability threshold from 20 tons per year (tpy) to 6 tpy on a tank-battery basis (as opposed to just a single tank basis under NSPS OOOO) at well production and compressor station facilities across the state. Operators must control tank emissions during the first 90 days of production and perform heightened inspection requirements for tank access points (i.e., thief hatches and pressure relief devices). The new tank provisions also require the development of a storage tank emission management (STEM) plan designed to ensure the tanks are operating without venting VOCs or other pollutants to the atmosphere.

In addition to the LDAR and storage tank requirements, the rules contain provisions governing glycol dehydrators, well maintenance, liquids unloading, retrofits of pneumatic controllers, and requirements to cap open-ended lines and valves, among others. In short, the AQCC has ushered in a significant and expansive new regulatory regime for oil and gas operations in Colorado. Given pressures to reduce methane from this industry, as well as renewed focus on climate change and ozone impacts, it is likely that other jurisdictions as well as the federal government will look to Colorado’s new rules as a model.

North Dakota—Regulators, Industry, and Environmental Groups Continue Efforts to Reduce Flaring of Associated Petroleum Gas

The North Dakota Department of Mineral Resources held a public hearing on April 22, 2014, to address the topic of flaring associated petroleum gas in the Bakken. Numerous industry members, including members of the North Dakota Petroleum Council, as well as at least one environmental representative, attended and spoke at the hearing. The issue has gained prominence in recent months following estimates that operators in North Dakota are flaring up to and over 30 percent of the associated petroleum gas—far more than in other oil- and gas-producing regions in the United States. With oil production in the Bakken estimated to continue to grow in the next several years, many are concerned about the potential

air quality degradation and resource loss created by such volume of flaring. Various proposals have surfaced to address the issue, including forcing producers to curtail production, limiting drilling permits, addressing the significant problem of obtaining rights-of-way to enhance and expedite lacking gas infrastructure, as well as an industry-backed proposal to require the submittal of gas capture plans with drilling permit applications. The gas capture plans would require each permit to demonstrate a plan for flaring reduction as well as proof of cooperation with a midstream company to gather the gas. In addition, Senators Barrasso (R-WY) and Hoeven (D-ND) have introduced a bill (S. 2112) that would expedite critical infrastructure projects on federal and tribal land in North Dakota.

Wyoming—Wyoming OGCC to Delay Rulemaking on Flaring of Natural Gas, Focus Instead on Setbacks

The Wyoming Oil and Gas Conservation Commission (WOGCC) held public meetings in April to discuss future rulemakings related to oil and gas operations. As announced, these public meetings were billed as a forum to discuss WOGCC's plans for and seek public input on upcoming rulemakings regarding flaring of natural gas, bonding requirements for operators, and setback requirements. At the April 15 public meeting, however, WOGCC announced that it had narrowed its current focus to studying and making recommendations on rules regarding setback requirements in developed areas. Development of new flaring regulations—a significant regulatory issue in terms of air quality and resource losses—has been tabled until after any rulemaking regarding setbacks has been completed.

South Dakota—EPA Partially Approves and Partially Disapproves South Dakota SIP Revisions Incorporating Greenhouse Gas Tailoring Rule

On April 18, 2014, EPA issued a final rule partially approving and partially disapproving revisions to South Dakota's state implementation plan (SIP). The final rule took effect on May 19, 2014. The approved SIP revisions govern the permitting of sources of

greenhouse gases (GHGs). More specifically, EPA approved revisions to South Dakota's prevention of significant deterioration (PSD) program to incorporate by reference the provisions of the federal PSD and title V greenhouse gas Tailoring Rule (Tailoring Rule), issued by EPA in May of 2010. Incorporation of the provisions of the Tailoring Rule establishes (1) that GHGs are regulated under South Dakota's PSD program, and (2) emission thresholds for determining which new stationary sources and modification projects become subject to the state's PSD permitting requirements for GHG emissions.

EPA disapproved of a related provision that would have automatically rescinded the state's Tailoring Rule provisions in certain circumstances. In the final rule, EPA also indicated that it would take separate action on a proposed revision to provisions regarding construction permits for minor sources.

Utah

On February 6, 2014, EPA approved amendments to the provisions of Utah's SIP pertaining to excess emissions during malfunctions. The revisions were submitted to EPA by the state on August 16, 2012, in response to a SIP call issued by EPA on April 18, 2011. The 2011 SIP call was based on EPA's conclusion that the Utah SIP was "substantially inadequate" under the Clean Air Act (CAA), due to the inclusion of an "Unavoidable Breakdown Rule," which automatically exempted from enforcement excess emissions resulting from equipment malfunctions and could have been read to give the Utah executive secretary exclusive authority to decide whether excess emissions constituted a violation.

EPA's long-standing interpretation of the CAA, as it relates to excess emissions during malfunctions, is that all periods of excess emissions, regardless of cause, must be treated as violations and that automatic exemptions from emissions limits are not permissible. Furthermore, it is EPA's position that SIP provisions giving a state actor absolute discretion to determine whether an instance of excess emissions is a violation of an emission limitation are impermissible under the

CAA, because such a determination could bar EPA and citizens from enforcing applicable requirements.

The 2011 SIP call was challenged on several grounds by a regulated entity but was upheld by the Tenth Circuit in *US Magnesium, LLC, v. EPA*, 690 F.3d 1157 (10th Cir. 2012).

The SIP revisions approved by EPA on February 6, 2014, corrected the deficiencies described in the 2011 SIP call. Specifically, the state eliminated the exemption for excess emissions during malfunctions, and revised the prior regulatory language that appeared to grant the state executive secretary exclusive authority to determine whether a violation has occurred. As revised, Utah's malfunction provisions allow the state to refrain from pursuing an enforcement action for violations due to malfunctions after consideration of certain specified criteria. However, the provisions only pertain to the state's exercise of its own enforcement discretion and have no bearing upon potential enforcement by EPA or citizens. The rule became effective on March 10, 2014.

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We will be using the committee list serve, Web site, and social media to keep you informed. For the committee roster of more than 550 members and other information, log onto the ABA Web site under myABA at: <https://apps.americanbar.org/abanet/common/MyABA/home.cfm>.

EPA REGION 10

Dustin T. Till
Pacificorp
Portland, Oregon

Alaska

EPA has published a direct final rule approving state implementation plan (SIP) revisions submitted by the state of Alaska. The SIP revisions (1) update the Anchorage CO motor vehicle emissions budget (MVEB) in the Anchorage CO maintenance area using EPA's Motor Vehicle Emission Simulator (MOVES) model; and (2) satisfy Clean Air Act section 175A(b) requirements for a second ten-year maintenance plan for the Anchorage CO maintenance plan via a limited maintenance plan. 79 Fed. Reg. 11,707.

Idaho

EPA has proposed to approve a PM₁₀ revised maintenance plan the Idaho Department of Environmental Quality (IDEQ) submitted on March 10, 2014. The revised maintenance plan addresses maintenance of the PM₁₀ standard for a second ten-year period and contains revised transportation conformity budgets for Northern Ada County. EPA is also proposing to approve the February 15–16, 2011, high wind exceptional event at the Boise Fire Station monitor, as well as contingency measures for the Pinehurst PM₁₀ air quality improvement plan. 79 Fed. Reg. 9697.

Washington

On March 4, 2014, EPA approved changes to the Washington SIP that update ambient air quality standards for carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The new ambient air quality standards are contained in chapter 173-476 WAC. EPA also approved the Washington Department of Ecology's repeal of outdated particulate matter standards (chapter 173-430 WAC) because all current particulate matter standards are consolidated in the newly approved chapter 173-476 WAC. 79 Fed. Reg. 12,077.