

New Developments in Air Regulation

By Gary Pasheilich

U.S. EPA is moving forward on multiple initiatives that will significantly impact regulatory policy for air sources

The last few weeks have seen a significant amount of regulatory action related to air regulation and permitting that will likely impact client stakeholders. Below are some highlighted developments.

EPA Issues Fugitive Emissions Rule

On Oct. 14, EPA published its proposed rule requiring that unplanned fugitive emissions be accounted for in determining whether a project is a “major modification” that triggers new source review air permitting. Public comments are due by Dec. 13, 2022.

EPA Issues Endangerment Finding as Precursor to Aircraft Regulations

On Oct. 7, EPA issued a proposed endangerment finding regarding lead emissions from aircraft engines. Once finalized, the finding would be a precursor to EPA proposing regulatory standards for lead emissions from aircraft engines.

EPA Climate Implementation Plans Released

On Oct. 6, EPA released 20 different program- and region-specific implementation plans in response to EPA’s 2021 Climate Adaptation Plan, with the goal of identifying and addressing the nation’s climate-related vulnerabilities. These plans were prepared in response to President Biden ordering all federal agencies to integrate climate adaptation planning into their missions, programs and management functions.

Planned Removal of Regulatory Waivers for SSM Events

On Sept. 29, EPA air official Scott Mathias stated during an AAPCA conference that the agency plans to propose a further action on its existing 2015 “SIP Call” that required states to remove regulatory waivers for periods of facility startup, shutdown and malfunction (SSM) from their state implementation plans. Twelve states, including Ohio, have received findings of failure to submit compliant SIPs and now face potential penalties.

EPA to Update Key “Potential to Emit” Guidance

EPA is planning to update its 1989 Guidance on Limiting Potential to Emit in New Source Permitting. This key guidance document is central to the regulatory determination of whether a source is a major source, as well as addressing synthetic minor sources. The new guidance is expected in October.

For more information on these issues, contact any of the listed Roetzel's Environmental, Energy, Health & Safety attorneys.

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