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Environmental Update

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EPA Extends Comment Period for 1-hour SO₂ NAAQS Guidance to December 2, 2011

Contact: Joseph Brown

On October 28, 2011, the U.S. Environmental Protection Agency (EPA) extended the public comment period on its proposed “Guidance for 1-Hour SO₂ SIP Submissions” for an additional 30-day period. 76 Fed. Reg. 66925. **The deadline for comments is now December 2, 2011.** EPA’s guidance addresses development of State Implementation Plans for attainment of the 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) issued by EPA in June 2010. Of particular significance, EPA’s guidance addresses the use of required air quality dispersion modeling to demonstrate attainment and maintenance of the standard.

EPA Announces Review of Approach for Evaluation of NSPS Standards

Contact: Joseph Brown

On October 24, 2011, EPA announced a revised approach for carrying out required periodic evaluations of New Source Performance Standards (NSPS). 76 Fed. Reg. 65653. EPA's proposal provides criteria for evaluating whether review of a particular NSPS is necessary. Under EPA's proposal, NSPS that met one of three criteria would be deemed exempt from review, unless extenuating circumstances made further deliberation necessary. These three criteria include: (1) whether new or updated control technology exists; (2) whether any new, modified, or reconstructed sources are expected within the NSPS category; and (3) whether other regulatory programs already address the same pollutants and emission sources such that revision of the NSPS would not result in any more stringent requirements than are already applicable. After identifying NSPS not currently in need of review, EPA intends to prioritize remaining NSPS for review based on a multi-pollutant and sector-based approach. **The deadline for comments on EPA's proposal is November 23, 2011.**

EPA Announces Intent to Propose Revisions to Non-Hazardous Secondary Materials Rule

Contact: Joseph Brown

EPA has announced that it will be proposing revisions to its Non-Hazardous Secondary Materials Rule (NHSM), which was finalized on March 21, 2011. 76 Fed. Reg. 15456. EPA will likely issue the proposed revisions at the end of November, and has publicly stated in a letter to Senator Ron Wyden that intended revisions include: (1) clarification that certain materials are already within the scope of biomass that is a traditional fuel; (2) provision of a process for petitioning EPA for a nationwide determination that a particular nonhazardous secondary material is not a solid waste when used as a fuel or ingredient in a combustion unit based on balancing of legitimacy criteria; (3) expanding or clarifying the list of secondary materials, including resinated wood products, that are non-wastes when used as a fuel or an ingredient in a combustion unit; and (4) revision of legitimacy criteria to expressly allow the comparison of groups of contaminants. EPA has also indicated that it intends to revise the NHSM Rule on the same timeline as its current reconsideration of the recently published Commercial and Industrial Solid-Waste Incinerator Rule (CISWI). EPA's stated schedule for reconsideration of its CISWI Rule is to issue proposed revisions by the end of November 2011 and to finalize those standards by the end of April 2012.

EPA Delays Issuance of Final EGU MACT Until December 16, 2011

Contact: Joseph Brown

On October 21, 2011, EPA filed a stipulated extension of the November 16, 2011, consent decree deadline for issuance of maximum achievable control technology standards for electric utility steam generating units (EGU MACT). The United States District Court for the District of

Columbia has already accepted the stipulation, which extends the deadline for EPA to sign a notice of final rulemaking to December 16, 2011.

EPA Announces Further Reconsideration of RICE NESHAP

Contact: Joseph Brown

By letter dated October 18, 2011, EPA has announced that it will initiate a reconsideration process for its recently promulgated National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines (RICE NESHAP) to address the use of small emergency engines for peak shaving. EPA previously announced and accepted comment on reconsideration of the portion of the RICE NESHAP regarding operation of emergency engines for 15 hours per year as part of an emergency demand response program. See 75 Fed. Reg. 75937. EPA will publish the official reconsideration notice in the *Federal Register* soon.

EPA Announces that Facilities Must Report H₂S Releases to Toxics Release Inventory

Contact: Joseph Brown

On October 17, 2011, EPA announced that it will require reporting of hydrogen sulfide (H₂S) releases under the Emergency Planning and Community Right-to-Know Act (EPCRA). 76 Fed. Reg. 64022. While listed as a toxic chemical under EPCRA since 1993, EPA has until now stayed any reporting requirements under EPCRA for H₂S. EPA previously announced its intent to consider lifting its stay of reporting requirements for H₂S in February 2010. The first reports for H₂S will be due on July 1, 2013, for reporting year 2012.

FDEP Air Division Releases 2011-2012 Business Plan

Contact: Joseph Brown

The Florida Department of Environmental Protection's (FDEP) Division of Air Resource Management (DARM) has released its fiscal year 2011-2012 business plan. The plan outlines the nature of DARM's business, its business goals, and the strategy for attaining those goals. DARM's stated goals include cost reduction, increased efficiency and consistency, lowered taxes, and government accountability. A copy of DARM's fiscal year 2011-2012 annual business plan is available at the link below.

http://www.dep.state.fl.us/air/documents/darm_business_plan_2011_1.pdf

FDEP Proposes to Adopt PM_{2.5} PSD Test Procedures and SO₂ NAAQS

Contact: Joseph Brown

On October 21, 2011, the DEP published notice of its proposed adoption-by-reference of certain federal regulations affecting sulfur dioxide (SO₂) and particulate matter (PM). See F.A.W. Notice ID 10520443. This includes adoption of EPA's recently promulgated 1-hour SO₂ national ambient air quality standard (NAAQS), published at 75 Fed. Reg. 35520. It also includes adoption of EPA's revisions to the methods for measurement of filterable and condensable PM, 75 Fed. Reg. 80118, and adoption of increments, significant impact levels and significant monitoring concentration screening tools for PM_{2.5} under the Prevention of Significant Deterioration (PSD) program, published at 75 Fed. Reg. 64864.

Proposed Florida SIP Revision Regarding Sulfur Storage and Handling Facilities

Contact: Thomas Philpot

The Florida DEP Division of Air Resource Management has determined that particulate emissions from sulfur storage and handling facilities are negligible, and therefore, regulations adopted under Rules 62-212.600 and Rule 62-296.411, F.A.C., for facility-specific work practices and monitoring are no longer necessary. The Department considers the General Preconstruction Review Requirements and Prevention of Significant Deterioration (PSD) provisions of sections 62-212.300 and 62-212.400, F.A.C., respectively, and the General Pollutant Emission Limiting Standards of section 62-296.320, F.A.C., to be adequate for the control of the negligible particulate emissions.

Accordingly, the Department has proposed revising Florida's State Implementation Plan (SIP) to remove Rule 62-212.600 and Rule 62-296.411, F.A.C. DEP's action requests removal of these rules from the EPA-approved SIP, but separate action will be required for repeal of the rules under the F.A.C. **If requested, a public hearing on this proposal will be held on November 16, 2011, at the Florida DEP office of the Division of Air Resource Management. Interested parties may also submit comments for consideration by DEP by November 14, 2011.**