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Regulatory Roundup

Part 75 Monitoring and Reporting Update

ECMPS Quarterly Updates

At the recent stakeholder meeting in May, EPA announced that the ECMPS Client Tool will continue to have quarterly updates in the upcoming future as these updates are required to correct bugs, add enhancements and improve performance. The scheduled release for the Q3 version of ECMPS is Wednesday, September 16, 2009. ECMPS users will be required to update their version of the Client Tool as they have done in the past. All shared database users should coordinate with their database administrators since the update will include changes to the shared database and a script will need to be run. This script will also be available on September 16.

EPA Announces Updated Versions of the "Plain English Guide to the Part 75 Rule" and the "Part 75 Administrative Processes"

EPA has announced that updated versions of the "Plain English Guide to the Part 75 Rule" and the "Part 75 Administrative Processes" are now available. These updated versions reflect the transition to ECMPS and revisions to Part 75 (effective January 24, 2008) along with the 2008 court decisions regarding CAIR and CAMR.

For more information, go to:
<http://www.epa.gov/airmarkets/whatsnew.html>.

Comments on EPA's "Draft Part 75 Emissions Monitoring Policy Manual" were due by August 31, 2009

EPA has released the "Draft Part 75 Emissions Monitoring Policy Manual" on their website. This updated document incorporates changes prompted by the January 24, 2008, amendments to 40 Part 75 and the conversion to XML reporting in ECMPS. Questions or comments on the draft should be forwarded to your CAMD regional coordinator or to Louis Nichols via email at nichols.louis@epa.gov.

CAIR Update

EPA Proceeding Quickly and CAIRfully with Rule Replacements

On July 9th, 2009, EPA Assistant Administrator Regina McCarthy stated in testimony to the Senate Subcommittee on Clean Air and Nuclear Safety that EPA would move "smartly and aggressively" to propose a CAIR replacement rule. During her testimony, she offered a timeframe of early 2010 for proposal and early 2011 for rule finalization. Of specific interest in her testimony was the fact that she stated that it is the Agency's intention to use all of the tools at its disposal to draft policies that "cover all pollutants we are responsible for: SO₂, NO_x, air toxics (mercury (Hg), acid gases, others) and greenhouse gases" while ensuring that all of the policies drafted by EPA are "clear, coordinated and legally defensible." It is expected that the revised CAIR rule, Utility MACT rule, regional haze SIP requirements and Mandatory Greenhouse Gas (GHG) Reporting rule will soon form a comprehensive multi-pollutant strategy for significantly reducing power plant emissions.

CAIR To Become CAPA?

Senator Carper (D-Del.) recently made an advanced draft of the Clean Air Planning Act of 2009 (CAPA) available to Air Daily. The intended goals of CAPA 2009 are to relieve the chaos in the emissions trading markets caused by the July 2008 decision as well as provide legislative certainty instead of a new CAIR rule that would immediately be bogged down in litigation. Some of the highlights of the preliminary draft include:

- EPA regulations would establish a new trading program for emissions from 2012 and beyond in which all SO₂ allowances would be auctioned
- Pre-2010 SO₂ allowances would still carry full one-to-one value (one allowance = 1 ton), but 2010 and 2011 vintage allowances would only be worth 50%, or one-half ton
- The 50% ratio would also apply to all 48 lower states, not just the eastern CAIR states
- For NO_x, the draft bill specifies two trading zones, one for the eastern states and one for the western states
- The legislation would establish a 90% mercury (Hg) reduction standard for all units starting in 2015

As of September 18, 2009, the bill had not officially been introduced in the Senate and the final version is subject to change.

Mercury Update

Changing State of Mercury (Hg) Monitoring

Over the last few months, many states have dramatically slowed the process of revising and/or enforcing mercury monitoring requirements as EPA has shifted course and is pursuing a comprehensive Utility MACT rule. The proposed Utility MACT rule is expected to be published around the middle to end of 2010, but many sources will soon be required to provide details on existing control devices, including the installation and operating cost, as well as the results of any performance testing conducted in the last five years. Sources may also be required to conduct additional comprehensive HAPs testing and submit the data to EPA to support the Utility MACT rulemaking process. Additional details related to the Utility MACT rule will be included in future Regulatory Roundup editions as data becomes available and the proposed rule is published.

New Elements of Mercury Reporting

Although the progress of the enforcement has slowed, many sources still have reporting obligations due to previously existing state rules, permit conditions, voluntary agreements or consent decrees so it is important that they are aware of some available documents pertaining to mercury monitoring and reporting.

During the EPRI tradeshow this year, EPA recommended the Northeast States for Coordinated Air Use Management (NESCAUM) mercury monitoring protocols, published in September 2008, for use as templates when states are revising their requirements because they are flexible, cover various monitoring techniques and can be used to demonstrate compliance with applicable mercury emission limits in various units of measure (e.g., lb, lb/TBtu, lb/GW-hr, percent reduction). These documents may also be good references for sources wishing to petition to use previously installed CEMS in lieu of state mandated stack testing and calculations.

On July 2, 2009, EPA published "Interim Traceability Protocols" for elemental and oxidized mercury calibrators. The protocols allow calibrators to be certified by the manufacturer prior to shipment or in the field by direct comparison to a monitor that was previously certified against a Vendor Prime. If a source is required to demonstrate NIST traceability to the applicable agency, it is important to check with the manufacturer of the calibrator and obtain a list of written procedures for operation, maintenance and quality assurance/recertification requirements in order to maintain compliance with the interim protocols.

Greenhouse Gas (GHG) Update

U.S. EPA Draft Mandatory GHG Reporting Rule

U.S. EPA published the Draft Mandatory GHG Reporting Rule in the Federal Register on April 10, 2009. The draft rule requires the annual reporting of the six (6) main greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF₆). The reporting threshold is 25,000 metric tons of CO₂ equivalents (CO₂e). The draft rule requires the monitoring of emissions to begin in 2010, with the first report to be submitted in 2011. Units currently subject to the Acid Rain Program will continue to submit CO₂ data in the XML EDR on a quarterly basis. EPA has indicated that there will be many changes incorporated into the final rule, which is tentatively scheduled to be published in the Federal Register in the fall of 2009.

For more information on the draft rule, visit:

<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.

RGGI

The RGGI participating states have developed an offsets module for the RGGI CO₂ Allowance Tracking System (COATS). The module will provide for registration of offset projects and electronic submittal of consistency applications and monitoring and verification reports. Here's a list of eligible offset categories:

- Landfill methane capture and destruction
- Reduction in emissions of sulfur hexafluoride (SF₆)
- Sequestration of carbon due to afforestation
- Reduction or avoidance of CO₂ emissions from natural gas, oil or propane end-use combustion due to end-use energy efficiency in the building sector
- Avoided methane emissions from agricultural manure management operations

The fourth auction was held on June 17, 2009. The clearing price for the first control period (2009-2011) was \$3.23 while the clearing price for the second control period (2012-2014) was \$2.06. The latest auction was conducted on September 9, 2009. All 10 RGGI states will be participating. For more information on the RGGI program or auction details, visit www.rggi.org.

Western Climate Initiative

WCI published the Final Essential Requirements for Reporting on July 15, 2009. This guidance document requires its member states and provinces to require mandatory monitoring starting in 2010, with the first report due in 2011. The applicability threshold for reporting is 10,000 metric tons of CO₂e annually. The document requires the reporting of all six GHGs in metric tons in CO₂e. Units currently reporting mass CO₂ emissions, in accordance with 40 CFR Part 75, will continue to report their emissions under that program and will convert to metric tons to satisfy the requirements of mandatory GHG reporting. Each member state and province must issue regulations to implement the program. The member states of California and New Mexico currently have reporting requirements. For more information on the WCI program, visit www.westernclimateinitiative.org.

Congressional Activity

The U.S. House of Representatives passed the American Clean Energy and Security Act in June 2009 (Act). The Global Warming Title of the Act includes an economy wide CO₂ Cap-and-Trade program with the following reductions from 2005 levels:

- 3% by 2012
- 17% by 2020
- 42% by 2030
- 83% by 2050

The issue has moved to the U.S. Senate. A draft Senate bill is scheduled for September 2009. A full house vote is tentatively scheduled for November 2009. For more information on the House bill, visit <http://energycommerce.house.gov>.

PADEP Update

Documentation Required for the Transition to Revision 8

Sources making the move to Revision 8 reporting should be prepared to submit the documentation outlined below to PADEP during the time surrounding their transition.

- 7-day Drift Test (if required)
- Petition (if required)
- Amended Phase I for DAS Approval
- Phase III for DAS Approval

Get the latest available information on documentation and submission requirements during the PADEP Revision 8 Update at the Fall 2009 User Group in San Antonio. You don't want to miss this important information session!

PADEP Conducts Workshops on Revision 8 Implementation and the CEMDPS Tool

PADEP conducted six CEMS workshops in March and April of this year at each of the Department's Regional Offices. The focus of these workshops was the implementation of CSMM Revision 8 and the use of the new web-based CEMDPS*Online Tool. The following topics were covered during each of the workshops:

- Overview (along with program contacts)
- Implementation of Revision 8 (along with flowchart)
- CEMDPS User Accounts (along with User Access Form)
- Guidelines for using the CEMDPS*Online Tool
 - Instructions for Data Migration Error Checking
 - Quarterly Report Validation Rules
 - Submitting a Test Protocol
 - Guidelines for Preparation of an EDR Submittal
- DAS Approval Process (along with table for example data submittal)
- Mercury Monitoring Update (along with flowchart)

A copy of the presentations and other documents given during the workshop may be found at:

<http://www.dep.state.pa.us/dep/deputate/airwaste/aq/cemspage/workshop2009.htm>.

PADEP Publishes "The Compliance Assurance Policy for CEMS on Combustion Units"

The Pennsylvania Department of Environmental Protection (PADEP) published the "Compliance Assurance Policy for Continuous Emission Monitoring Systems (CEMS) on Combustion Units" (aka "Boiler CAP") in the PA Bulletin on April 18, 2009. This policy establishes uniform criteria for assessing monetary penalties for exceedances of emission standards reported from CEMS, as well as data availability and timeliness requirements for report submittal. The Boiler Cap became effective April 18, 2009, for Q2 2009 quarterly reports.

A copy of the Boiler CAP (DEP ID Number 273-4000-005) along with the comment/response may be found on the PADEP CEMS website at: <http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10558>.

PADEP Issues "Data Validation Clarification Document" for Sources Transitioning to Revision 8

The Pennsylvania Department of Environmental Protection (PADEP) has developed a data validation document for Revision 8 of the Continuous Source Monitoring Manual (CSMM). This document was developed based on numerous requests to PADEP before and after the CEMS workshops held earlier this year. The "Data Validation Clarification Document" is available from PADEP and is currently in draft form. PADEP has indicated that it will be posted on their CEMS website after they receive feedback. PADEP has also indicated that they will soon be updating their question and answer documentation as well.

PADEP Mercury Reporting Stalled by State Supreme Court

In June, The Pennsylvania Supreme Court issued an order denying PADEP's application to reinstate the automatic supersedeas of the Commonwealth Court's decision on the Mercury regulation. The DEP had petitioned to be allowed to enforce the current Mercury (Hg) monitoring and reporting guidelines until the PA Supreme Court ruled on a full appeal of the Commonwealth Court's findings. Since the PA Supreme Court denied the request, the DEP is still enjoined from implementing and enforcing the requirements of the Technical Guidance Document.