

FACT SHEET

FINAL RULE: REVISIONS TO THE PUBLIC NOTICE PROVISIONS IN CLEAN AIR ACT PERMITTING PROGRAMS

ACTION

- On October 5, 2016, the Environmental Protection Agency (EPA) finalized revisions to the public notice provisions of the New Source Review (NSR), title V and Outer Continental Shelf (OCS) permit programs of the Clean Air Act (CAA).
- The rule removes the mandatory requirement to provide public notice of a draft permit (and certain other program actions) through publication in a newspaper and instead provides for electronic noticing (termed e-notice) of these actions.
- Permitting authorities that implement e-notice are also required to post the draft permit on a website (termed e-access).
- E-notice, which is already being practiced by the EPA and many other permitting agencies, results in cost savings over newspaper publication and enables agencies to provide notice of draft permits and other affected actions more quickly and efficiently.
- The rule applies to major source air permits issued by the EPA and by all other air agencies – with the exception of major source permits issued under the Tribal NSR Rule, which already provides for e-notice.
- The rule requires that e-notice be implemented as the consistent noticing method for draft permits issued by the EPA and permitting authorities with delegated programs on or before 30 days after publication of the final rule in the Federal Register.
- The rule provides flexibility for permitting authorities that implement their own EPA-approved regulations to implement either e-notice or traditional newspaper notice. However, such permitting authorities must use a single consistent noticing method for all subject notices to avoid confusion.
- E-notice is already available for minor NSR permit actions through previous EPA guidance and this rule extends that guidance to synthetic minor permits. The rule also includes a rule revision to make clear that the requirement to make certain elements of the permit record available for public inspection may be met either by making these materials available at a physical location or electronically.
- The rule does not preclude permitting authorities from supplementing e-notice with newspaper notice and/or other additional means of notification to the public.
- The rule does not alter any existing requirements regarding the content of public notices, which vary across the different section of the permitting rules and by permitting authority.

BACKGROUND

- While the Clean Air Act requires permitting authorities to provide the opportunity for public participation in the processing of air permits, the statute does not specify the best or preferred method for providing public notice. The EPA's air permitting regulations provide more specificity regarding the methods of meeting the public notice obligations.
- The current rules for the major NSR, title V and OCS programs were issued in the 1980's and 1990's, prior to the electronic media age. Consequently, these rule sections were written to require that permitting authorities notify the public of permitting actions by way of newspaper publication, which was the most effective way to advertise draft permits at the time.
- Over the years, availability of and access to the Internet and other forms of electronic media have increased significantly in the United States. One effect of this development is that circulation of newspapers and other print media is declining, making printed newspaper notice less effective in providing widespread public notice of permit actions.
- EPA has already provided for e-notice of draft permits in lieu of newspaper notice for Tribal NSR permits and minor NSR permits. In addition, many permitting authorities have been posting draft permit notices on their agency websites. Electronic posting of such notices has been demonstrated to be an effective, convenient and cost-efficient way to provide public notice of permitting-related information to the majority of the public.

FOR MORE INFORMATION

- To download a copy of the final rule from the EPA website, go to: <https://www.epa.gov/nsr/nsr-regulatory-actions>.
- This final rule and other background information are also available either electronically at <http://www.regulations.gov>, the EPA's electronic public docket and comment system; or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located in the EPA Headquarters, Room 3334, William Jefferson Clinton West Building, 1301 Constitution Ave., N.W., Washington, D.C. 20460. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays.
 - Visitors are required to show photographic identification, pass through a metal detector and sign the EPA visitor log. All visitor materials will be processed through an x-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Materials for this action can be accessed using Docket ID EPA-HQ-OAR-2015-0090.
- For further information about the final rule, contact Peter Keller (919) 541-2065 or keller.peter@epa.gov; or Ben Garwood (919) 541-1358 or garwood.ben@epa.gov.