

Recent Developments

Information about Environmental Issues

February 2016

U.S. ENVIRONMENTAL PROTECTION AGENCY ("EPA") RECENT RULEMAKING ACTIVITIES:

Air:

1. [81 Fed. Reg. 6765](#); [81 Fed. Reg. 6824](#) (Feb. 9, 2016). *Protection of Stratospheric Ozone: Revisions To Reporting and Recordkeeping for Imports and Exports.* EPA has published a Direct Final Rule to make minor conforming edits to the stratospheric protection regulations to implement the International Trade Data System. Unless EPA received adverse written comments to the Proposed Rule, published concurrently, by March 10, 2016, the Direct Final Rule will become effective on May 9, 2016.
2. [81 Fed. Reg. 6814](#) (Feb. 9, 2016). *National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector Amendments.* This Proposed Rule would amend certain compliance dates in the National Emission Standards for Hazardous Air Pollutants Refinery MACT 1 and Refinery MACT 2 regulations and make technical corrections and clarifications to the New Source Performance Standards (NSPS) for petroleum refineries, which were published December 1, 2015. Comments on this Proposed Rule are due March 25, 2016.
3. [81 Fed. Reg. 9109](#) (Feb. 24, 2016). *Review of New Sources and Modifications in Indian Country: Extension of Permitting and Registration Deadlines for True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country.* This Final Rule, effective February 24, 2016, amends the "Federal Minor New Source Review (NSR) Program in Indian Country" to extend the NSR minor source permitting deadline for true minor sources in the oil and natural gas sector from March 2, 2016, to October 3, 2016, and finalizes two amendments to conform the minor source registration deadline to the permitting deadline change.
4. [81 Fed. Reg. 9350](#); [81 Fed. Reg. 9407](#) (Feb. 25, 2016). *Clarification of Requirements for Method 303 Certification Training.* EPA has published a Direct Final Rule better defining the requirements associated with conducting method 303 training courses, by adding language that further clarifies the criteria used by EPA to determine the competency of Method 303 training providers. Method 303 is an air pollution test method used to determine the presence of visible emissions from coke ovens. Unless EPA received adverse written comments to the Proposed Rule. Published concurrently, by March 28, 2016, the Direct Final Rule will become effective on April 25, 2016.
5. [81 Fed. Reg. 9339](#) (Feb. 25, 2016). *Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds—Requirements for t-Butyl Acetate.* EPA has issued a Final Rule amending the regulatory definition of volatile organic compounds ("VOC") by removing the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of t-butyl acetate (also known as tertiary butyl acetate or TBAC) as a VOC. The effective date of this rule is April 25, 2016.

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6. [81 Fed. Reg. 9797](#) (Feb. 26, 2016). *Greenhouse Gas Reporting Rule*. On January 29, 2016, EPA requested comments on a proposed rule titled “2015 Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule.” EPA is extending the public comment period from February 29, 2016 to March 30, 2016

State Implementation Plan (“SIP”):

7. [81 Fed. Reg. 6483](#) (Feb. 8, 2016). *Infrastructure or Requirements for the 2008 Ozone and 2010 Nitrogen Dioxide National Ambient Air Quality Standards*. EPA has proposed approval of elements of Texas SIP submittals that address how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 O₃ and 2010 NO₂ NAAQS (infrastructure SIPs or i-SIPs). The i-SIPs ensure that the State’s SIP is adequate to meet the state’s responsibilities under the Federal Clean Air Act. The comment period on this Proposed Rule closed on March 9, 2016.

Waste

8. [81 Fed. Reg. 6687](#) (Feb. 8, 2016). *Additions to List of Categorical Non-Waste Fuels*. This Final Rule amends the Non-Hazardous Secondary Materials rule by adding the following three materials to the list of categorical non-waste fuels: Construction and demolition wood processed from construction and demolition debris according to best management practices; paper recycling residuals generated from the recycling of recovered paper, paperboard and corrugated containers and combusted by paper recycling mills whose boilers are designed to burn solid fuel; and creosote treated railroad ties that are processed in specified types of units. The effective date of the Final Rule is March 9, 2016.

9. [81 Fed. Reg. 7455](#) (Feb. 12, 2016). *Significant New Use Rules (“SNUR”)*. EPA has finalized SNURs under the Toxic Substances Control Act (“TSCA”) for three very long chain chlorinated paraffin (vLCCPs—alkyl chain length of C21 and above) chemical substances that were the subject of PMNs P-12-539, P-13-107, and P-13-109. This Final Rule, which is effective April 12, 2016, requires anyone who intends to manufacture, import, or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

9. [81 Fed. Reg. 7987](#) (Feb. 17, 2016). *Lead-Based Paint Programs*. EPA has finalized revisions to the Lead Renovation, Repair, and Painting (RRP) rule, and the Lead-based Paint (LBP) Activities rule, which are intended to improve the day-to-day function of the programs by reducing burdens to industry and EPA, and by clarifying language for training providers, while retaining the protections provided by the original rules. This Final Rule was effective February 17, 2016.

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (“TCEQ”)

Waste:

1. [41 Tex. Reg. 930](#); [41 Tex. Reg. 933](#) (Feb. 5, 2016). *30 T.A.C. Chapter 305, Consolidated Permits; 30 T.A.C. Chapter 327, Spill Prevention and Control*. The TCEQ has proposed amendments to Chapters 305 and 327 to implement Senate Bill 912 (Acts of the 84th Legislature, 2015), concerning reporting of certain accidental discharges or spills of treated or untreated wastewater on a monthly basis from wastewater treatment facilities or collection systems owned or operated by a local government.. The proposed rulemaking would revise Chapter 327 to improve readability and clarity. The proposal would also add new § 305.132 and § 327.32 in order to implement the requirements of SB 912 for permitted wastewater treatment facilities, unpermitted wastewater treatment facilities and collection systems.

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ALSO OF INTEREST

National Environmental Justice Advisory Council. EPA has issued a [request for nominations](#) for candidates to be considered for appointment to the [National Environmental Justice Advisory Council](#) to fill approximately six new vacancies for terms through September 2019. Nominations should be submitted by Friday, April 15, 2016.

Inventory of U.S. Greenhouse Gas Emissions and Sinks. EPA has announced the availability of its [Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2014](#)

EPA National Enforcement Initiatives for fiscal years 2017-2019. EPA has announced its seven [National Enforcement Initiatives for fiscal years 2017-2019](#). The seven initiatives are: 1) Keeping Industrial Pollutants Out of the Nation's Waters (new initiative); 2) reducing risks of accidental releases at industrial and chemical facilities (new initiative); 3) cutting hazardous air pollutants (expanded initiative); 4) reducing air pollution from the largest sources; 5) ensuring energy extraction activities comply with environmental laws; 6) keeping raw sewage and contaminated stormwater out of the nation's waters; and 7) preventing animal waste from contaminating surface and ground water.

EPA Proposes Revisions to its Risk Management Program. EPA is [proposing revisions](#) to its [Risk Management Program](#) regulations to improve chemical process safety, assist local emergency authorities in planning for and responding to accidents, and improve public awareness of chemical hazards at regulated sources.

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UPCOMING CONFERENCES, MEETINGS, and WORKSHOPS

TCEQ Work Session. The next scheduled TCEQ Work Session will be held in Austin on April 7, 2016.

TCEQ Environmental Trade Fair and Conference. The next TCEQ annual [Environmental Trade Fair and Conference](#) has been scheduled for May 3-4, 2016.

TCEQ Public Drinking Water Conference 2016. TCEQ has scheduled its [Public Drinking Water Conference](#), which provides information and tools for public water systems, for August 9-10, 2016 in Austin, Texas.

TCEQ Pollution Prevention Waste Management Workshop. This TCEQ [workshop](#) will be held in Austin on September 7, 2016, and will provide training to help prevent pollution from hazardous waste and toxic chemicals.

TCEQ Advanced Air Permitting Seminar. The TCEQ's [2016 Advanced Air Permitting Seminar](#) will be held in Austin on October 10-11, 2016.

TCEQ Water Quality/Stormwater Seminar. This TCEQ [seminar](#), to be held in Austin on October 12-13, 2016, will provide updates on permitting rules and upcoming regulations.

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CONTACT INFORMATION

For copies of any information referenced in this newsletter, please contact Susie McKithan at 713.229.7947, or by e-mail at susie.mckithan@bakerbotts.com. Questions you may have regarding these or any other matters may be directed to any of the attorneys in our environmental section. For your convenience, their names and telephone numbers are listed below:

AUSTIN:

Molly Cagle	512.322.2535
Pam Giblin	512.322.2509
Aileen Hooks	512.322.2616
Jennifer Keane	512.322.2594
Derek McDonald	512.322.2667
Samia Broadaway	512.322.2676
Ty'Meka Reeves	512.322.2515
Carlos Romo	512.322.2579
Kevin Vickers	512.322.2634
Paulina Williams	512.322.2543

HOUSTON:

Scott Janoe	713.229.1553
Matt Kuryla	713.229.1114
Devi Chandrasekaran	713.229.1384
Zachary Craft	713.229.1133
Harrison Reback	713.229.1567
Kim Tuthill White	713.229.1166
Cathy Yang	713.229.1349

WASHINGTON, D.C.:

Megan H. Berge	202.639.1308
William Bumpers	202.639.7718
Joshua Frank	202.639.7748
Debra Jezouit	202.639.7728
Steve Leifer	202.639.7723
Kent Mayo	202.639.1122
J. Barton Seitz	202.639.7895
Daniel Steinway	202.639.7902
Christopher Danley	202.639.7842
Thomas Jackson	202.639.7710
Michael McGovern	202.639.7797
Leslie Couvillion	202.639.7829
Shani Harmon	202.639.1124
Bozana Lundberg	202.639.1324
Allison Watkins Mallick	202.639.7754
Martha Thomsen	202.639.7863

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