

## *Recent Developments*

### *Information about Environmental Issues*

#### *April 2011*

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

##### *Air:*

1. [76 Fed. Reg. 18407](#) (April 4, 2011). *Hospital/Medical/Infectious Waste Incinerators*. This Final Rule, effective May 4, 2011, amends the new source performance standards for large hospital/medical/infectious waste incinerators by correcting errors in the nitrogen dioxides ("NO<sub>x</sub>") and sulfur dioxide ("SO<sub>2</sub>") emissions limits and correcting other errors in the new source performance standards for these incinerators.

2. [76 Fed. Reg. 19830](#) (April 8, 2011). *Clean Alternative Fuel Vehicle and Engine Conversions*. EPA has revised the regulatory criteria by which manufacturers of clean alternative fuel conversion systems may gain an exemption from the federal Clean Air Act prohibition against tampering for the conversion of vehicles and engines to operate on a clean alternative fuel. The effective date of this Final Rule is April 8, 2011.

3. [76 Fed. Reg. 22566](#) (April 21, 2011). *National Emission Standards for Hazardous Air Pollutants ("NESHAP")*. This final action promulgates NESHAPs for the following industrial source categories: Group I Polymers and Resins, Marine Tank Vessel Loading Operations, Pharmaceuticals Production, and the Printing and Publishing Industry. For each of these NESHAPs, EPA has revised the provisions related to emissions during periods of startup, shutdown, and malfunction. The Final Rule is effective April 21, 2011.

4. [76 Fed. Reg. 22825](#) (April 25, 2011). *Mandatory Reporting of Greenhouse Gases*. EPA has extended the deadlines, by three months, for submitting best available monitoring method ("BAMM") applications to EPA under the provisions outlined in *Subpart W: Petroleum and Natural Gas Systems of the Greenhouse Gas Reporting Rule*. The effective date of this rule is April 30, 2011.

##### *Texas: State Implementation Plan ("SIP"):*

5. [76 Fed. Reg. 20602](#) (April 13, 2011). *Disapproval of Interstate Transport SIP Revision*. EPA has proposed disapproval of the Texas SIP submittal for the interstate transport requirements for the 2006 24-hour PM<sub>2.5</sub> NAAQS based on its assertion that the Texas submittal does not contain adequate provisions to prohibit air pollutant emissions from within Texas that significantly contribute to nonattainment in, or interference with maintenance of, the 2006 PM<sub>2.5</sub> NAAQS in states downwind from Texas. The proposed disapproval further states that, if EPA finally disapproves of the SIP submittal, EPA

will have two years to issue a federal implementation plan ("FIP") for Texas unless the asserted deficiencies are corrected. Comments on the proposed disapproval are due May 13, 2011.

Water:

6. [76 Fed. Reg. 21652](#) (April 18, 2011). *Spill Prevention, Control, and Countermeasure ("SPCC") Rule: Milk and Milk Product Containers.* EPA has published a Final Rule, effective June 17, 2011, which exempts all milk and milk product containers, including associated piping and appurtenances, from SPCC requirements. In addition, the capacity of these containers, piping, and appurtenances will no longer be included in a facility's total oil storage capacity calculation.

7. [76 Fed. Reg. 22174](#) (April 20, 2011). *Cooling Water Intake Structures.* This Proposed Rule would establish national requirements applicable to the location, design, construction, and capacity of cooling water intake structures at existing power generating facilities and existing manufacturing and industrial facilities that withdraw more than 2 million gallons per day of water from waters of the United States and use at least 25% of that water exclusively for cooling purposes. EPA must receive comments on this proposal by July 19, 2011.

\* \* \* \* \*

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")  
RECENT RULEMAKING ACTIVITIES:**

*No rulemaking actions were published in the Texas Register by the TCEQ during the month of April 2011.*

\* \* \* \* \*

**UPCOMING CONFERENCES, MEETINGS, and WORKSHOPS**

**TCEQ Work Session.** The next TCEQ Work Session currently is scheduled to be held Thursday, June 30, 2011, in Austin, Texas.

**Texas Environmental Superconference.** The Texas Environmental Superconference will be August 4-5, 2011 at the Austin Four Seasons Hotel. A "boot camp" course on air issues will be held the evening before. [Additional information](#) will be available soon.

\* \* \* \* \*

\* \* \* \* \*

## **ALSO OF INTEREST**

Review of NAAQS for Particulate Matter. EPA has released a final document, [Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards](#), which includes staff analyses of the scientific bases for alternative policy options that EPA will consider prior to rulemaking.

Lead NAAQS Review Plan. EPA has made available for public review the [draft integrated review plan](#) ("IRP") for the lead NAAQS. The draft IRP contains an outline of the review process, key policy-relevant issues and scientific questions, and EPA's proposed schedule for completing the evaluation of the air quality criteria for lead and the review of the primary and secondary lead NAAQS. EPA plans to issue a proposed rulemaking with any changes to the lead NAAQS in January 2014, with final rulemaking scheduled in November 2014.

Draft NPDES General Permit. EPA is accepting comments until May 25, 2011 on a [draft NPDES general permit](#) for stormwater discharges from large and small construction activities that would extend the expiration date of the 3-year permit to January 31, 2012, instead of June 30, 2011.

Chemical Notices. EPA now requires [electronic submissions](#) for new chemical notices, including pre-manufacture notices ("PMNs"), under the Toxic Substances Control Act ("TSCA"). These notices are required to be submitted to EPA at least 90 days (in the case of PMNs) prior to the manufacture or import of the chemical.

2011 State of the Air. The American Lung Association has released its 2011 [State of the Air Report](#), which analyzes data from state air quality monitors.

\* \* \* \* \*

\* \* \* \* \*

**CONTACT INFORMATION**

For copies of any information referenced in this newsletter, please contact Jan Williamson at 512.322.2563, or by e-mail at [jan.williamson@bakerbotts.com](mailto:jan.williamson@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:***

Pam Giblin	512.322.2509
Aileen Hooks	512.322.2616
Jennifer Keane	512.322.2594
Derek McDonald	512.322.2667
Matt Paulson	512.322.2582
Sara Burgin	512.322.2649
Whitney Swift	512.322.2672
Brian Faulkner	512.322.2617
Nick Graham	512.322.2538
Amber MacIver	512.322.2597
Carlos Romo	512.322.2579

***HOUSTON:***

Scott Janoe	713.229.1553
Matt Kuryla	713.229.1114
Zachary Craft	713.229.1133
Colette Fields	713.229.1118
Rebecca H. Moring	713.229.1835
Kathleen Weir	713.229.2108

***WASHINGTON, D.C.:***

Pat Berry	202.639.7746
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
Daniel Steinway	202.639.7902
Thomas Jackson	202.639.7710
J. Barton Seitz	202.639.7895
Will Cleveland	202.639.7882
Christopher Danley	202.639.7842
Brook Detterman	202.639.7763
Matthew Droz	202.639.7863
Lauren Edwardson	202.639.7905
Laura Fleischmann	202.639.1306
Michael Heister	202.639.1140
Megan Heuberger Berge	202.639.1308
Michael McGovern	202.639.7797
Michael Schon	202.639.7707
Kendrea Tannis	202.639.7716
Allison Watkins	202.639.7754

\* \* \* \* \*