

## *Recent Developments*

### *Information about Environmental Issues*

#### *June 2011*

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

##### *Air:*

1. [76 Fed. Reg. 35744, 35806](#) (June 20, 2011). *National Emission Standards for Hazardous Air Pollutants ("NESHAP"): Plating and Polishing*. EPA has published a Direct Final Rule to clarify that the emission control requirements of the plating and polishing area source NESHAP do not apply to any bench-scale activities. The Direct Final Rule will become effective on September 19, 2011, unless EPA receives adverse comment to the Proposed Rule, published concurrently, by July 20, 2011.

2. [76 Fed. Reg. 36339, 36472](#) (June 22, 2011). *Mandatory Reporting of Greenhouse Gases ("GHG"): Electronics Manufacturing*. For reporting years 2011 and 2012, EPA is proposing to allow the largest semiconductor facilities the option to calculate emissions using default emission factors already contained in Subpart I, Electronics Manufacturing of the GHG Reporting Rule, rather than recipe-specific emission factors for the plasma etching process type. These proposed changes have been made in response to a request for reconsideration of specific provisions, and would apply only to the initial years of compliance while EPA continues to better understand the electronics manufacturing industry's concerns with Subpart I and considers longer-term alternative options. In addition, EPA has extended certain deadlines in Subpart I that are related to using the best available monitoring methods from June 30, 2011 to September 30, 2011.

3. [76 Fed. Reg. 37300](#) (June 27, 2011). *Mandatory Reporting of GHG: Petroleum and Natural Gas Systems*. This Proposed Rule would extend the time period during which owners and operators of covered facilities would be permitted to use best available monitoring methods during 2011 without submitting a request to EPA for approval. The proposal also would expand the list of types of emissions sources for which owners and operators would not be required to submit a request to EPA to use best available monitoring methods for 2011. Comments on the Proposed Rule may be submitted to EPA until July 27, 2011.

4. [76 Fed. Reg. 37954](#) (June 28, 2011). *Standards of Performance for Stationary Compression Ignition and Spark Ignition Internal Combustion Engines*. EPA has finalized a rule that requires more stringent standards for stationary compression ignition engines with displacement greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder, consistent with recent revisions to standards for similar mobile source marine engines. The effective date of this Final Rule is August 29, 2011.

Texas-Specific Issues:

5. [76 Fed. Reg. 32333](#) (June 6, 2011). *Texas' State Implementation Plan ("SIP")*. EPA has proposed SIP approval of Texas permit renewal rules from 1995, 1998, and 2002. This proposal would approve the following provisions of Chapter 116, all in their current forms: § 116.310, which requires the executive director to notify a permit holder that the permit is scheduled for review; § 116.311, which requires a permit renewal applicant to demonstrate regulatory compliance for "dockside vessel emissions" associated with the facility as well as applicable MACT requirements; and § 116.314, which addresses the review schedule for permit renewals and the effective date of an existing permit.

Waste:

6. [76 Fed. Reg. 34147, 34200](#) (June 13, 2011). *Land Disposal Restrictions ("LDR")*. This Direct Final Rule revises the LDR treatment standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. Unless EPA receives adverse written comment to the proposal, published concurrently, by July 13th, the rule will become effective on August 12, 2011.

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

Air:

1. [36 Tex. Reg. 3801](#) (June 24, 2011). *30 T.A.C. Chapter 115, Control of Air Pollution from Volatile Organic Compounds*. These proposed amendments would require owners and operators of VOC floating roof storage tanks located in the Dallas-Fort Worth ("DFW") area to implement operational limitations on landing these roofs and to retrofit these tanks with more effective fittings and seals, perform inspections, and keep records. Owners and operators of storage tanks storing crude oil and condensate in the DFW area would be required to implement control requirements for VOC emissions from some upstream oil and gas storage tanks, monitor and test equipment, and keep records. Public hearings on the proposed amendments will be held in Arlington on July 14th, in Houston on July 18th, and in Austin on July 22nd. In addition, written comments may be submitted to the TCEQ until July 25, 2011.

2. [36 Tex. Reg. 3834](#) (June 24, 2011). *30 T.A.C. Chapter 115, Control of Air Pollution from Volatile Organic Compounds*. This proposed rulemaking would implement Reasonably Available Control Technology ("RACT") in the DFW and HGB areas for flexible package printing; industrial cleaning solvents; large appliance coatings; metal furniture coatings; paper, film and foil coatings; miscellaneous industrial adhesives; and miscellaneous metal and plastic parts coatings. The rule also would implement RACT in the DFW area for automobile and light-duty truck manufacturing coatings. Affected owners and operators would be required to comply with the proposed new rule requirements beginning March 1, 2013. Public hearings on this proposed rulemaking will be held in Arlington on July 14th, in Houston on July 18th, and in Austin on July 22nd. In addition, written comments may be submitted to the TCEQ until July 25, 2011.

Waste:

3. [36 Tex. Reg. 3925](#) (June 24, 2011). *30 T.A.C. Chapter 334, Underground and Aboveground Storage Tanks*. This TCEQ has adopted an amendment to § 334.560, "Reimbursable Cost Specifications," to increase certain reimbursable amounts relating to offsite access fees charged by municipalities, waste disposal costs, and per diem costs. This amendment will allow eligible owners of Leaking Petroleum Storage Tanks to receive reimbursement payments that are more representative of current market rates for these corrective action activities. The effective date of this rule is June 30, 2011.

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**UPCOMING CONFERENCES, MEETINGS, and WORKSHOPS**

**TCEQ Work Session.** The next TCEQ Work Session currently is scheduled to be held Tuesday, August 26, 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.

**Public Drinking Water Conference.** The TCEQ will sponsor the [2011 Public Drinking Water Conference](#) on August 9-10, 2011 in Austin. This is a free seminar that provides information on operating a public drinking water system or water utility in Texas.

**Water Quality/Storm Water Seminar.** This annual [TCEQ-sponsored seminar](#), which will be held September 8-9, 2011, details the application and technical review of municipal, industrial, storm water, CAFO and sludge permits, and also provides updates on homeland security, reclaimed water, pretreatment, and environmental management systems.

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**ALSO OF INTEREST**

**TCEQ Organizational Changes.** Effective August 1, 2011, John Sadlier, Deputy Director for the Office of Compliance and Enforcement, will be retiring from the TCEQ and Richard Hyde has been named the new Deputy Director of that office. In addition, the TCEQ is creating a separate Office of Air, which will be headed by Steve Hagle, and an Office of Waste, which will be headed by Brent Wade.

**EPA Lead Designation Recommendations.** EPA has posted on its [website](#) responses to State and tribal designation recommendations for the 2008 lead National Ambient Air Quality Standards (“NAAQS”) and intends to make final designation determinations for the lead NAAQS by October 14, 2011. Comments to the proposed recommendations may be submitted to EPA until July 21, 2011.

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**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:

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