

Recent Developments

Information about Environmental Issues

March 2016

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

Air:

1. [81 Fed. Reg. 10563](#) (March 1, 2016). *2010 Sulfur Dioxide National Ambient Air Quality Standard ("NAAQS")*. EPA provided notice of availability of its responses to certain state designation recommendations for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standard. EPA invited public review and input on its responses, and intends to make final the designation determinations for the areas of the country addressed by the responses no later than July 2, 2016.

2. [81 Fed. Reg. 13275](#) (March 14, 2016). *Cross-State Air Pollution Rule ("CSAPR")*. This final rule affirms and makes permanent interim amendments to dates in Federal Implementation Plans addressing interstate transport of ozone and fine particulate matter. The interim amendments correctly reflected CSAPR's compliance deadlines as revised by the effect of the D.C. Circuit's action granting EPA's motion to lift the previous stay of CSAPR and delay its deadlines by three years. The effective date of the Final Rule is May 13, 2016.

3. [81 Fed. Reg. 13637](#) (March 14, 2016). *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act*. This Proposed Rule amends EPA's Risk Management Program regulations in response to Executive Order 13650. The amendments seek 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. Comments on the Proposed Rule are due May 13, 2016.

4. [81 Fed. Reg. 14393](#) (March 17, 2016). *Protection of Stratospheric Ozone*. EPA has published a Final Rule; technical correction, which restores provisions that were inadvertently removed by the Final Rule published on October 15, 2015, which issued critical use allowances for 2016 and made non-substantive corrections to the quarantine and preshipment recordkeeping and reporting requirements. The effective date of this Final Rule is March 17, 2016.

5. [81 Fed. Reg. 17247](#) (March 28, 2016). *Ambient Monitoring Quality Assurance and Other Requirements*. This Final Rule revises EPA's ambient air monitoring requirements for criteria pollutants by adding and harmonizing definitions; clarifying annual monitoring network plan public notice requirements; revising network design requirements; system modifications and operating schedules; clarifying data certification, data submittal and archiving procedures; reorganizing and clarifying quality assurance requirements and revising certain network design criteria for non-source oriented lead monitoring. The effective date of this rule is April 27, 2016.

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")

Air:

1. [41 Tex. Reg. 1650](#) (March 4, 2016). *30 T.A.C. Chapter 101, General Air Quality Rules.* The TCEQ has proposed amendments to §§ 101.1 and 101.10 that incorporate the most recent revisions to the federal definition of VOC, lower the lead emissions delineation threshold for point source in §101.10 to align with reporting requirements in the EPA Air Emissions Reporting Rule, and change the distance from the shoreline to 9.0 nautical miles for consistency with Texas' legal offshore jurisdiction.

2. [41 Tex. Reg. 2127](#) (March 18, 2016). *30 T.A.C. Chapter 114, Control of Air Pollution from Motor Vehicles.* The TCEQ has proposed amendments to the existing rules implementing the Drayage Truck Incentive Program (DTIP) established under Texas Health and Safety Code, Chapter 386, Subchapter D-1. The proposed amendments would include non-road cargo handling equipment as eligible for replacement under the program, remove the requirement that the drayage truck being purchased must have a day cab only, and add language to the definition of seaport to include publically or privately owned property within a ship channel security district established under TWC.

Procedural Rules:

3. [41 Tex. Reg. 2173](#); [41 Tex. Reg. 2174](#); [41 Tex. Reg. 2176](#) (March 18, 2016). *30 T.A.C. Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions; 30 T.A.C Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; 30 T.A.C Chapter 80, Contested Case Hearings.* The TCEQ has adopted a series of amendments to Chapters 35, 55 and 80 to implement Senate Bill 1267 (Acts of the 84th Texas Legislature, 2015), which revises and creates numerous requirements related to notice of contested case hearings and agency decisions, signature and timeliness of agency decisions, presumption of the date that notice of an agency decision is received, motions for rehearing regarding agency decisions, and the procedures for judicial review of agency decisions. The adoption of the amendments to §35.29, §55.255, and repeal of §80.271, completed the rulemaking necessary to implement SB 1267.

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ALSO OF INTEREST

EPA Applicability Determinations. EPA has issued a [Notice of Availability](#) of applicability determinations, alternative monitoring decisions, and regulatory interpretations that have been made under the New Source Performance Standards; the National Emission Standards for Hazardous Air Pollutants; and/or the Stratospheric Ozone Protection Program. Electronic copies of each document posted on the Applicability Determination Index data system are available through the [Resources and Guidance Documents for Compliance Assistance](#) page of the Clean Air Act Compliance Monitoring website under "Air."

National Rivers and Streams Assessment. EPA has [announced](#) the availability of its final report on the [National Rivers and Streams Assessment 2008-2009](#), which describes the results of a nationwide survey that was conducted in 2008 and 2009 to assess the biological conditions in rivers and streams of the United States.

Draft Technical Report: Protecting Aquatic Life From Effects of Hydrologic Alteration. EPA and USGS have [announced](#) the availability of a draft technical report: *Protecting Aquatic Life from Effects of Hydrologic Alteration*, and are requesting public comment on the draft report. Comments are due on May 2, 2016.

TSCA Work Plan Chemical Risk Assessment. EPA has issued a [notice](#) announcing the availability of and opening the public comment period for the draft TSCA Work Plan Chemical risk assessment for 1-Bromopropane (1-BP). Comments on the draft report are due on May 9, 2016.

Public Teleconference of the Clean Air Scientific Advisory Committee Particulate Matter Panel. The EPA Science Advisory Board has [announced](#) a public teleconference of the Clean Air Act Scientific Advisory Committee Particulate Matter Panel on Monday, May 23, 2016, to peer review EPA's *Draft Integrated Review Plan (IRP) for the National Ambient Air Quality Standards (NAAQS) for Particulate Matter*.

Integrated Risk Information System ("IRIS"). EPA has [announced](#) the availability of the IRIS Program General Comments Docket and the Iris Program public science meetings for calendar year 2016.

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[UPCOMING CONFERENCES, MEETINGS, and WORKSHOPS](#)

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

TCEQ Work Session. The next scheduled TCEQ Work Session will be held in Austin on June 9, 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:

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