

## Recent Developments

### Information about Environmental Issues

### February 2015

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

##### Air:

1. [80 Fed. Reg. 5938](#); [80 Fed. Reg. 6035](#) (Feb. 4, 2015). *National Emission Standards for Hazardous Air Pollutants ("NESHAP"): Polyvinyl Chloride and Copolymers Production Area Sources Wastewater Limit Withdrawal*. This Direct Final Rule withdraws the total non-vinyl chloride organic hazardous air pollutant process wastewater emission standards for new and existing polyvinyl chloride and copolymers area sources. Unless EPA receives adverse written comment to the Proposed Rule, published concurrently, by March 13, 2015, this rule will become effective on March 30, 2015.
2. [80 Fed. Reg. 6481](#) (Feb. 5, 2015). *Volatile Organic Compounds ("VOCs") - Requirements for Tertiary Butyl Acetate ("TBAC")*. EPA has proposed a rule that would remove recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of TBAC as a VOC. Comments on this Proposed Rule must be received by EPA on or before April 6, 2015.
3. [80 Fed. Reg. 8392](#) (Feb. 17, 2015). *NESHAP: Aerospace Manufacturing and Rework Facilities*. This Proposed Rule would amend the NESHAP for Aerospace Manufacturing and Rework Facilities to address the results of the residual risk and technology review and to correct errors and deficiencies that were identified during the review of these standards. The proposal would add limitations to reduce organic and inorganic emissions of hazardous air pollutants from specialty coating application operations, would remove exemptions from the emission limitations for periods of startup, shutdown and malfunction ("SSM") so that the affected units would be submitted to the emission standards at all times, and would revise provisions to address recordkeeping and reporting requirements applicable to periods of SSM. Comments on the proposal must be submitted to EPA on or before April 3, 2015.
4. [80 Fed. Reg. 8442](#) (Feb. 17, 2015). *NESHAP: Coal- and Oil-Fired Electric Utility Steam Generating Units (the Mercury and Air Toxics Standards, or "MATS") and New Source Performance Standards ("NSPS") for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units (the "Utility NSPS")*. In addition to making clarifications and corrections to certain text of the [2012 MATS](#) and [Utility NSPS](#), this proposal would remove provisions establishing an affirmative defense for malfunction events following the decision handed down by the U.S. Court of Appeals for the D.C. Circuit in *NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir., 2014). EPA must receive comments on this Proposed Rule on or before April 3, 2015.

5. [80 Fed. Reg. 9078](#); [80 Fed. Reg. 8826](#) (Feb. 19, 2015). *Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation.* This Direct Final Rule corrects and clarifies various provisions of the Tier 3 rule; revises the test procedures and compliance provisions for nonroad spark-ignition engines at or below 19 kilowatts to conform to current practices; addresses an ambiguity regarding permissible design approaches for portable fuel containers meeting evaporative emission standards; revises the regulations to more carefully align with current requirements applicable to marine vessels with diesel engines as specified under MARPOL Annex VI; and corrects typographical errors in the Voluntary Quality Assurance Program rule. Unless EPA receives adverse written comments to the Proposed Rule, published concurrently, by April 6, 2015, the rule will become effective on May 5, 2015.

6. [80 Fed. Reg. 8787](#) (Feb. 19, 2015). *Air Emissions Reporting Requirements: Lead.* This Final Rule, effective February 19, 2015, lowers the threshold for reporting lead emissions sources as point sources, eliminates the requirement for reporting emissions from wildfires and prescribed fires, and replaces a requirement for reporting mobile source emissions with a requirement for reporting the input parameters that can be used to run the EPA models that generate emissions estimates. In addition, the rule removes the requirements to report daily and seasonal emissions in state, local, and tribal submissions under this rule and modifies some emissions reporting requirements that EPA has determined are not necessary for inclusion in the Air Emission Reporting Requirements rule.

[State Implementation Plan \("SIP"\): Texas:](#)

7. [80 Fed. Reg. 8274](#) (Feb. 17, 2015). *Dallas/Fort Worth ("DFW") Ozone Nonattainment Area.* EPA has proposed to reclassify the DFW 8-hour ozone nonattainment area as a severe ozone nonattainment area for the 84 parts per billion ozone standard established in 1997. Comments on this proposal must be received by EPA on or before March 19, 2015.

8. [80 Fed. Reg. 9204](#); [80 Fed. Reg. 9259](#) (Feb. 20, 2015). *Emissions Inventories for the DFW and Houston/Galveston/Brazoria ("HGB") Ozone Nonattainment Areas.* This Direct Final Rule approves revisions to the Texas SIP to include the 2011 emissions inventories for ozone precursors (VOC and nitrogen oxides) from point, area, on-road mobile, non-road mobile, and biogenic emissions source categories as the base year emissions inventories for the HGB and DFW areas. This rule will become effective on April 21, 2015, unless EPA receives adverse comment to the Proposed Rule, published concurrently, by March 23, 2015.

9. [80 Fed. Reg. 10352](#); [80 Fed. Reg. 10441](#) (Feb. 26, 2015). *Control of Air Pollution from VOCs.* EPA has proposed to approve a Texas SIP revision to allow for a voluntary alternative work practice to detect fugitive emission leaks using optical gas imaging instruments under the federal Leak Detection and Repair ("LDAR") requirements. Unless EPA receives adverse comment to the Proposed Rule, published concurrently, by March 30, 2015, this Direct Final Rule will become effective on April 27, 2015.

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**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")**

Air:

1. [40 Tex. Reg. 777](#) (Feb. 20, 2015). *30 T.A.C. Chapter 101, General Air Quality Rules.* This proposed rulemaking would remove certain requirements for emission sources not otherwise required to report an annual emissions inventory in certain areas of the State. The proposal would affect sources that experience at least one emissions event or maintenance, startup and shutdown activity and are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. A hearing on this proposal will be held in Austin on March 17, 2015; written comments may be submitted to the TCEQ until March 23, 2015.

Water:

2. [40 Tex. Reg. 518](#) (Feb. 6, 2015). *30 T.A.C. Chapter 290, Public Drinking Water.* Proposed amendments to Chapter 290 reflect changes related to the transfer of the utilities and rates program to the Public Utility Commission of Texas, and also would address federal changes to the lead and *E. coli* thresholds, desalination, chloramination, modification of the public water system plan review submittal process, enforceability of exceptions, and other drinking water matters. Comments on this proposal may be submitted to the TCEQ until March 10, 2015.

3. [40 Tex. Reg. 816](#) (Feb. 20, 2015). *30 T.A.C. Chapter 305, Consolidated Permits.* The TCEQ has adopted an amendment to §305.541 that adopts by reference revisions to the federal construction stormwater regulations, which were adopted in 40 CFR part 450 and became effective on May 5, 2014. The effective date of this amendment is February 26, 2015.

Waste:

4. [40 Tex. Reg. 587](#) (Feb. 6, 2015). *30 T.A.C. Chapter 331, Underground Injection Control.* Proposed amendments to §331.19 would allow the TCEQ to authorize, either by rule or by general permit, (a) injection wells within the Edwards Aquifer for injection of fresh water withdrawn from the Edwards Aquifer into a well that transects or terminates in the Edwards Aquifer for the purpose of providing additional recharge; and (b) injection of rainwater, storm water, flood water, or groundwater into the Edwards Aquifer by means of an improved natural recharge feature, such as a sinkhole or cave, for the purpose of providing additional recharge. The proposed rulemaking would also allow the TCEQ to authorize, by general permit, (a) an injection well that transects and isolates the saline portion of the Edwards Aquifer and terminates in the lower aquifer for the purpose of injecting concentrate from a desalination facility or fresh water that is part of an engineered aquifer storage and recovery ("ASR") facility; (b) an injection that terminates in saline portion of the Edwards Aquifer that has a total dissolved solids concentration of more than 10,000 milligrams per liter for the purpose of injecting concentrate from a desalination facility or fresh water as part of an engineered ASR facility, provided that the injection well must be at least three miles from the closest outlet of the Barton Springs; and (c) an injection well that transects or terminates in the Edwards Aquifer for aquifer remediation, injection of non-toxic tracer dye as part of a study, or a beneficial activity that is undertaken for the purposes of increasing protection of an underground source of drinking water from pollution or other deleterious effects. Comments on these proposed amendments may be submitted to the TCEQ until March 9, 2015.

5. [40 Tex. Reg. 818](#) (Feb. 20, 2015). *30 T.A.C. Chapter 336, Radioactive Substance Rules.* TCEQ has adopted an amendment to §336.1310 that reduces the maximum disposal rate that a licensee may charge party-state generators for disposal of Class A low-level radioactive waste - Shielded from \$250 per cubic foot to \$180 per cubic foot. The effective date of this amendment is February 26, 2015.

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### [ALSO OF INTEREST](#)

**Greenhouse Gas Emissions Inventory.** The Draft Inventory of [U.S. Greenhouse Gas Emissions and Sinks: 1990-2013](#) is available for public review. Comments on this document should be submitted to EPA by March 26, 2015.

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

**TCEQ Work Session.** The next Commissioners' Work Session is scheduled to be held in Austin on April 17, 2015.

**TCEQ Public Drinking Water Conference 2015.** TCEQ has scheduled its [Public Drinking Water Conference](#), which provides information and tools for public water systems and utilities, for August 11-12, 2015 in Austin, Texas.

**TCEQ Water Quality/Stormwater Seminar.** This TCEQ [seminar](#), to be held in Austin on September 23-24, 2015, will provide updates on permitting rules and upcoming regulations.

**TCEQ Advanced Air Permitting Seminar.** The TCEQ's [2015 Advanced Air Permitting Seminar](#) will be held in Austin on October 28-29, 2015.

**TCEQ Environmental Trade Fair.** This year's TCEQ [Environmental Trade Fair](#) will be held in Austin on May 5-6, 2015.

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**CONTACT INFORMATION**

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