

## Recent Developments

### Information about Environmental Issues

### January 2015

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

##### Air:

1. [80 Fed. Reg. 278](#) (Jan. 5, 2015). *National Ambient Air Quality Standards ("NAAQS")*: *Lead*. EPA has published a Proposed Rule that would retain the [current NAAQS standards for lead](#), which were set in 2008. Under the proposal, the primary and secondary standards would remain at 0.15 µg/m<sup>3</sup> averaged over a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. EPA will accept comments on this proposal until April 6, 2015.

2. [80 Fed. Reg. 2205](#) (Jan. 15, 2015). *Area Designations for PM<sub>2.5</sub> Standard*. This Final Rule establishes area designations under the 2012 revised primary annual PM<sub>2.5</sub> NAAQS. Fourteen areas in six states have been designated as "nonattainment," with three areas designated as "unclassifiable." All other areas of the country, including the entire state of Texas, are designated as "unclassifiable/attainment." The final area designations become effective on April 15, 2015.

3. [80 Fed. Reg. 2871](#); [80 Fed. Reg. 3089](#); [80 Fed. Reg. 3017](#) (Jan. 21, 2015). *National Emission Standards for Hazardous Air Pollutants ("NESHAP"): Industrial, Commercial, and Institutional Boilers and Process Heaters*. EPA has published notices of reconsideration for specific elements of the following final rules: (a) the [NESHAP for Boilers and Process Heaters](#) located at major sources; (b) the [NESHAP for Boilers](#) located at area sources; and (c) the [Standards of Performance for Commercial and Industrial Solid Waste Incineration \("CISWI"\) Units](#). The proposals include elimination of the affirmative defense to civil penalties for violations caused by malfunctions, as well as a number of clarifications and corrections to the final rules. EPA will accept comments until March 9, 2015.

4. [80 Fed. Reg. 3885](#) (Jan. 26, 2015). *Protection of Stratospheric Ozone*. The laboratory and analytical use exemption for the production and import of class I ozone-depleting substances has been extended through December 31, 2021. The effective date of this Final Rule is January 26, 2015.

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

5. [80 Fed. Reg. 2846](#) (Jan. 21, 2015). *Reasonably Available Control Technology ("RACT")*. EPA has proposed to approve portions of multiple revisions to the Texas SIP for the Houston/Galveston/Brazoria ("HGB") and the Dallas/Fort Worth ("DFW") 1997 8-hour ozone nonattainment areas as meeting RACT requirements applicable to sources of volatile organic compounds ("VOCs") and oxides of nitrogen ("NO<sub>x</sub>"). Comments on the proposal must be received by EPA on or before February 20, 2015.

Waste:

6. [80 Fed. Reg. 1693](#) (Jan. 13, 2015). *Definition of Solid Waste*. This Final Rule, effective July 13, 2015, revises the definition of *solid waste* to address certain exclusions for hazardous secondary materials intended for recycling or reclamation that would otherwise be regulated under Subtitle C of RCRA.

Byproduct Materials:

7. [80 Fed. Reg. 4155](#) (Jan. 26, 2015). *Uranium and Thorium Mill Tailings*. EPA has proposed new health and environmental protection standards that would regulate byproduct materials produced by uranium in-situ recovery ("ISR"), including both surface and subsurface standards, with a primary focus on groundwater protection, restoration, and stability. Comments on the Proposed Rule must be submitted to EPA by April 27, 2015.

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

Water:

1. [40 Tex. Reg. 74](#) (Jan. 2, 2015). *30 T.A.C. Chapter 331, Watershed Protection*. In response to a petition filed by the Tarrant Regional Water District, the TCEQ has adopted amendments to Chapter 311 that require an effluent limit of 1.0 milligram per liter for total phosphorus for new or amended domestic wastewater discharges to the Benbrook Lake water quality area and Benbrook Lake watershed, based on discharge flow volume and location. The effective date of these amendments is January 8, 2015.

Waste:

2. [40 Tex. Reg. 77](#) (Jan. 2, 2015). *30 T.A.C. Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste*. These amendments, effective January 8, 2015, update Chapter 335 to include federal rule changes that are set forth in parts of RCRA Clusters XXI-XXIII. The amendments include an alternative land disposal treatment standard for carbamate wastes; a revised definition of *solid waste* to conditionally exclude solvent-contaminated wipes that are cleaned and reused; and revisions to the definition of *hazardous waste* to conditionally exclude disposed solvent-contaminated wipes and hazardous carbon dioxide streams, provided the carbon dioxide streams are captured from emission sources and injected into Underground Injection Control Class VI wells for purposes of geologic sequestration.

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## ALSO OF INTEREST

**Streams and Wetlands.** EPA has released a final report, [Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence](#), which summarizes how streams and wetlands affect the physical, chemical, and biological integrity of downstream waters.

**Second External Review Draft Integrated Science Assessment for Oxides of Nitrogen - Health Criteria.** EPA will accept comments on this [draft Integrated Science Assessment](#) until March 31, 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.

**EPA Workshop on Ultrafine Particulate Matter ("UFP").** EPA will conduct a [workshop](#) on February 11-13, 2015 in Research Triangle Park, North Carolina, to provide an overview of the state-of-the-science on UFP emissions, air quality impacts, exposures, and health effects.

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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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