

## *Recent Developments*

### *Information about Environmental Issues*

### *June 2014*

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

##### *Air:*

1. [79 Fed. Reg. 31566](#) (June 2, 2014). *National Ambient Air Quality Standards ("NAAQS"): 1997 and 2006 Particulate Matter ("PM")*. In response to a January 2013 remand by the U.S. Court of Appeals for the District of Columbia addressing the implementation of the 1997 and 2006 PM<sub>2.5</sub> NAAQS, EPA has identified the initial classification of current 1997 and/or 2006 PM<sub>2.5</sub> nonattainment areas as "moderate." States may submit any additional attainment-related elements to their state implementation plan ("SIP") that may be needed to meet the applicable requirements for areas currently designated nonattainment for the 1997 and/or 2006 PM<sub>2.5</sub> NAAQS and to submit SIPs addressing the nonattainment new source review requirements in Subpart 4 of Part D, Title 1, of the federal Clean Air Act ("CAA"). The effective date of this Final Rule is July 2, 2014.

2. [79 Fed. Reg. 32948](#) (June 9, 2014). *Greenhouse Gas ("GHG") Reporting Program*. EPA has published a notice that it intends to publish aggregated versions of certain data that is collected under the GHG Reporting Program, including totals, averages, and other aggregated versions of data submitted by individual reporters. EPA will accept comments on this proposal until July 9, 2014.

3. [79 Fed. Reg. 34830](#) (June 18, 2014). *GHG Performance Standards: Existing Power Plants*. In response to a 2013 directive from the President, EPA has published a Proposed Rule that would establish GHG performance standards for existing power plants. The proposal includes state-specific emission reduction targets and a two-part structure as to how states may achieve those targets. States would be required to meet an interim goal on average over a 10-year period (2020-2029) and a final goal in 2030 and thereafter. EPA will accept comments on this Proposed Rule until October 16, 2014.

4. [79 Fed. Reg. 34960](#) (June 18, 2014). *GHG Performance Standards: Modified and Reconstructed Power Plants*. This Proposed Rule would establish standards of performance to limit emissions of carbon dioxide ("CO<sub>2</sub>") from modified and reconstructed fossil fuel-fired electric utility steam generating units and natural gas-fired stationary combustion turbines. The proposed standards reflect the degree of emission limitation achievable through the application of the best system of emission reduction ("BSER") determined by EPA to have been adequately demonstrated for each type of unit. EPA will accept comments on this Proposed Rule until October 16, 2014.

5. [79 Fed. Reg. 36880](#) (June 30, 2014). *Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards ("NSPS")*. This Petroleum Refining Sector Rulemaking addresses EPA's obligation to perform Risk and Technology Reviews for Petroleum Refinery MACT 1

and 2 source categories, as well as issues related to the reconsideration of Petroleum Refinery NSPS Subpart Ja. The proposal includes new requirements related to emissions during periods of startup, shutdown and malfunction to ensure that the standards are consistent with court opinions that have been issued since the standards were promulgated in 2008. Comments on the Proposed Rule may be submitted to EPA until August 29, 2014.

Waste & Remediation:

6. [79 Fed. Reg. 34480](#) (June 17, 2014). *All Appropriate Inquiries ("AAI")*. EPA has proposed to remove the 2005 ASTM International diligence standard E1527-05 from the AAI rule, as the 2005 standard has been replaced with updated ASTM standard E1527-13, which requires the evaluation of vapor intrusion in Phase I reviews. In order to give parties conducting AAI investigations under the 2005 standard time to complete those investigations and become familiar with the new standard, the effective date of this proposal would be delayed one year after publication of the final rule. Comments on the Proposed Rule may be submitted to EPA until July 17, 2014.

Drinking Water:

7. [79 Fed. Reg. 35081](#) (June 19, 2014). *Alternative Test Procedures*. This Final Rule, effective June 19, 2014, allows the use of 21 additional alternative testing methods used to measure the levels of contaminants in drinking water and determining compliance with national primary drinking water regulations.

Fuel Standards:

8. [79 Fed. Reg. 34242](#) (June 16, 2014). *Regulation of Fuels and Fuel Additives*. EPA has extended the compliance demonstration deadline for the 2013 renewable fuel standards to September 30, 2014 and has extended the associated deadline for submission of attest engagement reports for the 2013 renewable fuel standards to January 30, 2015. The effective date of this Final Rule is June 16, 2014.

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

There were no TCEQ rule proposals or adoptions published in the *Texas Register* in the month of June.

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## ALSO OF INTEREST

TCEQ Draft Air Quality Modeling Guidelines. The TCEQ Air Permits Division has developed [draft air quality modeling guidelines](#) to provide staff with a process to evaluate and determine air quality impacts analysis requirements for case-by-case permit reviews and will accept public comments on the draft guidance until August 31, 2014. Once final, this guidance will supersede the agency's Air Dispersion Modeling Guidelines, RG-25, February 1999.

EPA Spring 2014 Regulatory Agenda. EPA has published its [Spring 2014 Regulatory Agenda](#), which provides updated information on regulations and major policies currently under development by EPA, EPA reviews of existing regulations and major policies, and rules and major policymakings completed or cancelled by EPA since the last agenda was released.

Final Risk Assessment: Trichloroethylene ("TCE"). EPA has finalized its [risk assessment for TCE](#) that identifies health risks from exposures to consumers using spray aerosol degreasers and spray fixatives. EPA will conduct a workshop from July 29-30 on potential TCE degreaser alternatives and risk reduction approaches, and will conduct other activities to address the use of TCE as a stain-removal agent used in dry cleaning and as a clear protective spray fixative.

Final Integrated Review Plan ("IRP") for Nitrogen Dioxide ("NO<sub>2</sub>"). The [Final IRP](#) for the primary NAAQS for NO<sub>2</sub>, which includes the schedule and plan for EPA's review of the air quality criteria for health for oxides of nitrogen and the NO<sub>2</sub> NAAQS, has been released by EPA. The IRP anticipates a notice of final rulemaking for the NO<sub>2</sub> NAAQS by August 2017.

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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 August 15, 2014.

Water Quality/Stormwater Annual Seminar. The TCEQ has scheduled its annual [Water Quality/Stormwater Seminar](#) in Austin in September 16-17, 2014. This seminar will provide updates on permitting rules and upcoming regulations, as well as cover the technical aspects of municipal, industrial, stormwater, and sludge permits.

Advanced Air Permitting Seminar and Oil and Gas Facilities Workshop. TCEQ's next [Advanced Air Permitting Seminar and Oil and Gas Facilities Workshop](#) will be held at the Austin Convention Center, October 15-16, 2014. Registration will open in Spring 2014.

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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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