

Recent Developments

Information about Environmental Issues

March 2015

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

Air:

1. [80 Fed. Reg. 12263](#) (March 6, 2015). *2008 National Ambient Air Quality Standards ("NAAQS")*. EPA has published a Final Rule, effective April 6, 2015, that addresses nonattainment area state implementation plan ("SIP") requirements for implementing the [2008 ozone NAAQS](#). The rule includes requirements related to attainment demonstrations, reasonable further progress, reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. In addition, the rule addresses the revocation of the 1997 ozone NAAQS and anti-backsliding requirements that will apply when the 1997 ozone NAAQS are revoked.
2. [80 Fed. Reg. 13671](#) (March 16, 2015). *New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces*. This Final Rule, effective May 15, 2015, amends the Standards of Performance for New Residential Wood Heaters (40 CFR part 60, subpart AAA) and adds a new subpart, Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR part 60, subpart QQQQ). This Final Rule is effective on May 15, 2015.
3. [80 Fed. Reg. 14247](#) (March 18, 2015). *National Emission Standards for Hazardous Air Pollutants ("NESHAP"): Off-Site Waste and Recovery Operations*. EPA has finalized the residual risk and technology review for the Off-Site Waste and Recovery Operations source category. This rulemaking also finalizes amendments correcting and clarifying regulations related to emissions during periods of startup, shutdown and malfunction; adds requirements for reporting performance testing through the Electronic Reporting Tool; revises the routine maintenance provisions; clarifies provisions pertaining to open-ended valves and lines; adds monitoring requirements for pressure relief devices; clarifies provisions for some performance test methods and procedures; and makes several minor clarifications and corrections. The effective date of this rulemaking is March 18, 2015.
4. [80 Fed. Reg. 15099](#) (March 20, 2015). *Electronic Reporting and Recordkeeping Requirements*. This Proposed Rule would revise the General Provisions of 40 CFR part 60 and various subparts of the new source performance standards ("NSPS") to require affected facilities to submit specified air emissions data reports to EPA electronically and to allow affected facilities to maintain electronic records of these reports. EPA will accept comments on this proposal until May 19, 2015.

5. [80 Fed. Reg. 15180](#) (March 23, 2015). *Oil and Natural Gas Sector*. A public comment concerning the proposed definition of *low pressure gas well* that EPA timely received during the comment period for proposed amendments to the NSPS for the Oil and Natural Gas Sector inadvertently was excluded from the rulemaking docket and not considered when EPA finalized the definition in the [final amendments to the NSPS](#). To correct this oversight, EPA has re-proposed the definition of *low pressure gas well* and is soliciting comment on certain issues raised in the missed comment. This Proposed Rule also would remove provisions concerning storage vessels connected or installed in parallel and would revise the definition of *storage vessel*. Comments on this rulemaking action must be received by EPA on or before April 22, 2015.

6. [80 Fed. Reg. 15339](#) (March 23, 2015). *SIP Requirements: Fine Particulate Matter (“PM_{2.5}”) NAAQS*. This Proposed Rule sets forth the requirements that state, local and tribal air agencies would have to meet as they implement the current and future NAAQS for PM_{2.5}, such as general requirements for attainment plan due dates and attainment dates, emissions inventories, attainment demonstrations, provisions for demonstrating reasonable further progress, quantitative milestones, contingency measures, and nonattainment New Source Review permitting programs. In addition, EPA is proposing to revoke the 1997 primary annual standard because EPA revised the primary annual standard in 2012. EPA must receive comments on this Proposed Rule on or before May 22, 2015.

7. [80 Fed. Reg. 15510](#) (March 24, 2015). *NESHAP: Coal- and Oil-Fired Electric Steam Generating Units*. EPA has published a Final Rule, effective March 24, 2015, that amends the reporting requirements in the Mercury and Air Toxic Standards (“MATS”) rule by temporarily requiring owners or operators of affected sources to submit certain required emissions and compliance reports to EPA through the Emissions Collection and Monitoring Plan System Client Tool. Further, the rule temporarily suspends the requirement for owners or operators of affected sources to submit certain reports using the Compliance and Emissions Data Reporting Interface.

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

8. [80 Fed. Reg. 11321](#) (March 3, 2015). *Dallas/Fort Worth (“DFW”) Transportation Control Measure (“TCM”)*. EPA has made an administrative change in the DFW portion of the Texas SIP reflecting its concurrence on a substitute TCM that replaces environmental speed limits within the DFW 8-hour ozone nonattainment area with traffic signalization projects. The effective date of this action is March 3, 2015.

9. [80 Fed. Reg. 16291](#) (March 27, 2015). *1997 8-Hour Ozone NAAQS: Reasonably Available Control Technology (“RACT”)*. This Final Rule, effective April 27, 2015, approves revisions to the Texas SIP as meeting RACT requirements applicable to sources of VOC and NO_x in the Houston/Galveston/Brazoria (“HGB”) and DFW 1997 8-Hour ozone nonattainment areas.

10. [80 Fed. Reg. 16573](#); [80 Fed. Reg. 16611](#) (March 30, 2015). *Public Participation for Air Quality Permit Applications*. EPA has published a Direct Final Rule that approves two Texas SIP provisions related to the applicability of the public notice requirements to applications for Plant-Wide Applicability (“PAL”) permits and standard permits for concrete batch plants without enhanced controls. The rule also takes direct final action to convert the public notice applicability provisions for Texas Flexible Permits from a final conditional approval to a full approval. Unless EPA receives adverse written comments to the Proposed Rule, published concurrently, by April 29, 2015, this Direct Final Rule will become effective on May 29, 2015.

* * * * *

* * * * *

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")

There were no proposed/adopted rules published by the TCEQ during the month of March.

* * * * *

ALSO OF INTEREST

Improving EPA Regulations. EPA is requesting public input on its [regulatory review](#) of rules that may be outmoded, ineffective, insufficient, or excessively burdensome. In particular, input is requested on how EPA can promote regulatory modernization through business-process streamlining, facilitated by improved technology. Comments must be received by EPA by April 8, 2015.

* * * * *

UPCOMING CONFERENCES, MEETINGS, and WORKSHOPS

TCEQ Work Session. The next Commissioners' Work Session is scheduled to be held in Austin on May 15, 2015.

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

* * * * *

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. 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:

AUSTIN:

Molly Cagle	512.322.2535
Pam Giblin	512.322.2509
Aileen Hooks	512.322.2616
Jennifer Keane	512.322.2594
Derek McDonald	512.322.2667
Lisa Bennett	512.322.2627
Samia Broadway	512.322.2676
Nick Graham	512.322.2538
Carlos Romo	512.322.2579
Kevin Vickers	512.322.2634
Paulina Williams	512.322.2543

HOUSTON:

Scott Janoe	713.229.1553
Matt Kuryla	713.229.1114
Kathleen Bertolatus	713.229.2108
Devi Chandrasekaran	713.229.1384
Zachary Craft	713.229.1133
Kim Tuthill White	713.229.1166
Cathy Yang	713.229.1349

WASHINGTON, D.C.:

William Bumpers	202.639.7718
Joshua Frank	202.639.7748
Debra Jezouit	202.639.7728
Steve Leifer	202.639.7723
Kent Mayo	202.639.1122
Daniel Steinway	202.639.7902
Thomas Jackson	202.639.7710
J. Barton Seitz	202.639.7895
Michael McGovern	202.639.7797
Christopher Danley	202.639.7842
Shani Harmon	202.639.1124
Megan Heuberger Berge	202.639.1308
Allison Watkins Mallick	202.639.7754
Gabe Maser	202.639.7805
Michael Schon	202.639.7707
Martha Thomsen	202.639.7863
Christine Wyman	202.639.7767

* * * * *