

## Recent Developments

### Information about Environmental Issues

### April 2014

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

##### Air:

1. [79 Fed. Reg. 18952](#) (April 4, 2014). *Kraft Pulp Mills*. EPA has published a Final Rule, effective April 4, 2014, that revises particulate matter emission limits for recovery furnaces, smelt dissolving tanks and lime kilns commencing construction, reconstruction or modification after May 23, 2013. The rule also removes the exemption for periods of startup and shutdown and adds testing requirements and updated monitoring, recordkeeping and reporting requirements for affected sources.
2. [79 Fed. Reg. 22028](#) (April 21, 2014). *Amendments to Delegation of Authority Provisions in the Prevention of Significant Deterioration ("PSD") Program*. Amendments to the NSR PSD program amend certain outdated language that limited EPA's ability to delegate the federal PSD program to interested Indian tribes. The Final Rule will become effective on April 21, 2014.
3. [79 Fed. Reg. 23414](#) (April 28, 2014). *Tier 3 Motor Vehicle Emission and Fuel Standards*. This Final Rule, effective June 27, 2014, establishes more stringent vehicle emissions standards and will reduce the sulfur content of gasoline beginning in 2017. The standards will be implemented over the same timeframe as the greenhouse gas/fuel efficiency standards for light-duty vehicles as part of a comprehensive approach toward regulating emissions from motor vehicles.

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

4. [79 Fed. Reg. 18183](#) (April 1, 2014). *Revisions to the Minor New Source Review ("NSR") SIP*. EPA has published a Direct Final Rule approving several revisions to the Texas SIP related to the Texas Minor NSR Standard Permits Program. Unless EPA received adverse comment to this rulemaking prior to May 1<sup>st</sup>, the Direct Final Rule will become effective on June 2, 2014.
5. [79 Fed. Reg. 21144](#) (April 15, 2014). *Reasonably Available Control Technology ("RACT") for the 1997 8-Hour Ozone National Ambient Air Quality Standard ("NAAQS")*. EPA has approved revisions to the Texas SIP for the Houston/Galveston/Brazoria ("HGB") 1997 8-Hour ozone nonattainment area, which consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. This Final Rule, which is effective May 15, 2014, approves portions of two Texas SIP revisions as meeting certain RACT requirements for volatile organic compounds ("VOC") in the HGB area that were submitted to EPA in June 2007 and April 2010.

6. [79 Fed. Reg. 21179](#) (April 15, 2014). *Control of Air Pollution from Motor Vehicles*. EPA is proposing to approve revisions to the Texas SIP related to the implementation of the State's motor vehicle emissions Inspection and Maintenance ("I/M") program and the Locally Enforced Motor Vehicle Idling Limitations. Comments on the proposed approval may be submitted to EPA until May 15, 2014.

Water:

7. [79 Fed. Reg. 22188](#) (April 21, 2014). *Definition of "Waters of the United States."* EPA and the Army Corps of Engineers have proposed a rule that would define the scope of "waters of the United States" protected under the Clean Water Act. Comments on the proposed rule must be submitted to EPA on or before July 21, 2014.

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")

Air:

1. [39 Tex. Reg. 2753](#) (April 11, 2014). *30 T.A.C. Chapter 114, Control of Air Pollution from Motor Vehicles*. Proposed amendments to Chapter 114 would remove the prohibition on the increased use of methyl-tertiary-butyl-ether ("MTBE") in gasoline to conform to the Low Reid Vapor Pressure ("RVP") gasoline requirements. The proposal also would remove the registration requirements for gasoline producers and importers that supply low RVP gasoline to the 95 Texas counties affected by the Regional Low RVP Gasoline Program and would remove the annual reporting and certification requirements on the use of MTBE in low RVP gasoline. A public hearing on this proposal will be held in Austin on May 8, 2014. Written comments may be submitted to the TCEQ until May 12, 2014.

2. [39 Tex. Reg. 2760](#) (April 11, 2014). *30 T.A.C. Chapter 115, Control of Air Pollution from Volatile Organic Compounds*. Proposed amendments to Chapter 115 would (1) add definitions for dual-point vapor balance system," "coaxial system," and "gasoline dispensing facility"; (2) remove language regarding Stage II vapor recovery systems, which are required to be decommissioned; (3) require owners and operators of affected gasoline dispensing facilities ("GDFs") to comply with new testing and inspection procedures for their Stage I vapor recovery system that are consistent with the federal Stage I rule; (4) require owners and operators of affected GDFs to maintain compliance with the Stage I vapor recovery requirements through annual testing; (5) reduce the throughput level for exemption from Stage I in the 95 affected Texas counties from 125,000 gallons per month to 100,000 gallons per month; and (6) make minor changes to improve clarity in the rule language. A final hearing on this proposal will be held in Houston on May 6, 2014; written comments may be submitted to the TCEQ until May 12, 2014.

3. [39 Tex. Reg. 2854](#); [39 Tex. Reg. 2869](#); [39 Tex. Reg. 2875](#); [39 Tex. Reg. 2891](#); [39 Tex. Reg. 2901](#); [39 Tex. Reg. 2927](#) (April 11, 2014). *30 T.A.C. Chapter 39, Public Notice; Chapter 55, Requests for Reconsideration and Contested Case Hearings, Public Comment; Chapter 101, General Air Quality Rules; Chapter 106, Permits by Rule; Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and Chapter 122, Federal Operating Permits Program*. As mandated by H.B. 788 (Acts of the 83<sup>rd</sup> Legislature, 2013), the TCEQ has adopted rules related to the permitting of greenhouse gas ("GHG") emissions in Texas and that include procedures for transitioning any PSD GHG applications pending at EPA to the TCEQ. The effective date of these rules is April 17, 2014.

4. [39 Tex. Reg. 2898](#) (April 11, 2014). *30 T.A.C. Chapter 114, Control of Air Pollution from Motor Vehicles*. This rulemaking repeals and replaces existing §§ 114.640, 114.642, 114.644, 114.646 and 114.648 in order to continue the Texas Clean School Bus Program through August 31, 2019. The effective date of this rulemaking is April 17, 2014.

5. [39 Tex. Reg. 3432](#) (April 25, 2014). *30 T.A.C. Chapter 114, Control of Air Pollution from Motor Vehicles*. Adopted amendments to Division 3 of Chapter 114 revise existing rules implementing the Diesel Emissions Reduction Incentive (“DERI”) Program, which provides financial incentives for reducing emissions of on-road heavy-duty motor vehicles and non-road equipment. The adopted rule also adds Wise County to the list of applicable counties for the DERI Program. In addition, amendments to Division 5 of Chapter 114 amend existing rules for implementing the Texas Clean Fleet Program by including additional eligibility criteria for projects related to the transportation of raw agricultural products under the program and by specifying that the amount the TCEQ is to award under a grant for each vehicle being replaced is up to 80% of the total cost for replacement of a heavy-duty or light-duty diesel engine. Further, a new Division 8 of Chapter 114 implement the Drayage Truck Incentive Program that provides financial incentives to encourage owners to replace drayage trucks with pre-2007 model year engines with drayage trucks with 2010 or later model year engines. The effective date of these rules is May 1, 2014.

[Water:](#)

6. [39 Tex. Reg. 2773](#) (April 11, 2014). *30 T.A.C. Chapter 312, Sludge Use, Disposal, and Transportation*. In response to a petition for rulemaking, the TCEQ has proposed amendments to Chapter 312 that addresses nuisance odors and unauthorized discharges of bulk sewage sludge by establishing new core requirements applicable to all classes of sewage sludge. The proposal also would establish a new classification structure with corresponding requirement based upon treatment processes, and would clarify the executive director’s authority to include additional requirements as needed to address nuisance odors and unauthorized discharges. A public hearing on this proposal will be held May 6, 2014 in Austin, and written comments may be submitted until May 12, 2014.

[Miscellaneous:](#)

7. [39 Tex. Reg. 2748](#); [39 Tex. Reg. 2751](#) (April 11, 2014). *30 T.A.C. Chapter 11, Contracts; Chapter 14, Grants*. This proposal would add subsection (b)(9) to §11.102 to reflect the exemption from sovereign immunity for state-related breach of contract for engineering, architectural, or construction services or for material related to those professional services. The proposal also would add new subsection (f) to §14.9 to reflect the new requirement to make grant awards in excess of \$25,000 available to the public on the TCEQ’s website and to state the purpose which the grant was awarded. A public hearing on these proposals will be held in Austin on May 6, 2014, and written comments may be submitted until May 12, 2014.

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## ALSO OF INTEREST

**EPA Strategic Plan.** EPA has issued its fiscal year [2014-2018 Strategic Plan](#), which identifies five strategic goals: (1) addressing climate change and improving air quality; (2) protecting America's waters; (3) cleaning up communities and advancing sustainable development; (4) ensuring the safety of chemicals and preventing pollution; and (5) protecting human health and the environment by enforcing laws and assuring compliance.

**2014 U.S. Greenhouse Gas Inventory.** EPA has released [The Inventory of U.S. Greenhouse Gas Emissions and Sinks](#), which is an annual report to the Secretariat of the United Nations Framework Convention on Climate Change. This report presents a national-level overview of annual GHG emissions since 1990.

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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 June 27, 2014.

**Environmental Trade Fair and Conference.** The TCEQ's [2014 Environmental Trade Fair and Conference](#), will be held in Austin on May 6-7, 2014.

**Water Quality/Stormwater Annual Seminar.** The TCEQ has scheduled its annual [Water Quality/Stormwater Seminar](#) in Austin on 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**

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