

## *Recent Developments*

### *Information about Environmental Issues*

### *August 2013*

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

##### Air:

1. [78 Fed. Reg. 46947](#) (Aug. 2, 2013). *Texas: State Implementation Plan ("SIP")*. EPA has determined that the motor vehicle emissions budgets ("MVEB") in the Houston-Galveston-Brazoria ("HGB") 1997 8-hour ozone standard Reasonable Further Progress and Attainment Demonstration SIP revisions, which were submitted to EPA on May 6, 2013, are adequate for transportation conformity purposes. The effective date of these budgets is August 19, 2013.
2. [78 Fed. Reg. 47191](#) (Aug. 5, 2013). *2010 Sulfur Dioxide ("SO<sub>2</sub>") Primary National Ambient Air Quality Standard ("NAAQS"): Air Quality Designations*. This Final Rule, which will become effective October 4, 2013, establishes 29 1-hour SO<sub>2</sub> nonattainment areas in sixteen states. The basis for the designation of each of these areas as nonattainment, in general, is monitored air quality data for 2009-2011 indicating a violation of the 1-hour SO<sub>2</sub> NAAQS standard. For the areas designated nonattainment, the states must develop SIPs that provide for attainment of the NAAQS no later than October 4, 2018.
3. [78 Fed. Reg. 48318](#); [78 Fed. Reg. 48373](#) (Aug. 8, 2013). *Texas: SIP*. EPA has approved a revision to the Texas SIP that includes a maintenance plan for Victoria County that ensures continued attainment of the 1997 8-hour NAAQS for ten years after the effective designation date of June 15, 2004. Unless EPA receives adverse written comment to this rule by September 9, 2013, the Direct Final Rule will become effective on October 7, 2013.
4. [78 Fed. Reg. 49963](#) (Aug. 16, 2013). *Heavy-Duty Engine and Vehicle, and Nonroad Technical Amendments*. Because adverse written comments were received in response to certain elements of a Direct Final Rule published by EPA and the National Highway Traffic Safety Association ("NHTSA") that would have made corrections to the agencies' respective Medium- and Heavy-Duty Greenhouse Gas ("GHG") Emissions and Fuel Efficiency Final Rule issued on September 15, 2011, the agencies have withdrawn certain elements. The withdrawn provisions are (a) test requirements for heavy-duty greenhouse gas emissions in 40 C.F.R. part 1037; (b) optional chassis certification for heavy-duty greenhouse gas emissions in 40 C.F.R. part 1037; (c) expanded technical hardship for equipment manufacturers installing nonroad diesel engines; and (d) the replacement engine exemption in 40 C.F.R. part 1068, along with the corresponding changes to 40 C.F.R. 1042.615. The effective date of the Direct Final Rule amendments is August 16, 2013.

##### Waste:

5. [78 Fed. Reg. 49690](#); [78 Fed. Reg. 49714](#) (Aug. 15, 2013). *All Appropriate Inquiries*. EPA has published a Direct Final Rule that amends the all appropriate inquiries requirements of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") by allowing use of the updated ASTM International diligence standard, E1527-13, to satisfy the all appropriate inquiries that

are needed to qualify for certain landowner liability protections under CERCLA. Unless EPA receives adverse comment to the Proposed Rule, published concurrently, by September 16, 2013, the Direct Final Rule will become effective on November 13, 2013.

6. [78 Fed. Reg. 52860 \(Aug. 27, 2013\)](#). *Toxics Release Inventory ("TRI")*. This Final Rule, effective January 21, 2014, will require facilities to report non-trade secret TRI forms to EPA using electronic software. The only exception to this electronic reporting requirement is for the few facilities that submit trade secret TRI information, which will continue to submit their trade secret reporting forms and substantiation forms in hard copy.

Fuels:

7. [78 Fed. Reg. 49794 \(Aug. 15, 2013\)](#). *2013 Renewable Fuel Standards*. EPA is required to establish renewable fuel standards each November for the following year and has determined that the final percentage standards for these fuels for 2013 are: cellulosic biofuel, 0.004%; biomass-based diesel, 1.13%; advanced biofuel, 1.62%; and total renewable fuels, 9.74%.

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

Air:

1. [38 Tex. Reg. 5223 \(Aug. 16, 2013\)](#). *30 T.A.C. Chapter 111, Control of Air Pollution from Visible Emissions and Particulate Matter*. Proposed amendments to § 111.211 would add prescribed burning for wildfire hazard mitigation as an exception to the State's prohibition on outdoor burning. The comment period on this proposal will close September 16, 2013.

2. [38 Tex. Reg. 5271 \(Aug. 16, 2013\)](#). *30 T.A.C. Chapter 106, Permits by Rule ("PBR")*. The TCEQ has adopted a new PBR at § 106.359 that authorizes emissions from planned maintenance, startup, and shutdown ("MSS") activities and facilities at oil and gas handling and production facilities. The rule requires the use of a maintenance program at oil and gas sites based on best management practices to minimize emissions from planned MSS activities and requires owners and operators to keep records demonstrating compliance with required maintenance. The effective date of this new rule is September 10, 2013.

3. [38 Tex. Reg. 5295 \(Aug. 16, 2013\)](#). *30 T.A.C. Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants*. Adopted amendments to Subchapter C, *National Emission Standards for Hazardous Air Pollutants for Source Categories (FCAA, § 112, 40 CFR Part 63)* incorporate by reference amendments and additions made to these NESHAPs by EPA, as published through December 21, 2012. The effective date of these amendments is August 21, 2013.

Water:

4. [38 Tex. Reg. 5226 \(Aug. 16, 2013\)](#). *30 T.A.C. Chapter 303, Operation of the Rio Grande*. Amendments to § 303.53 would remove the one-year limitation for certain water contracts in the Rio Grande Watermaster Program, and would add a new subsection § 303.53 (d) to the rule to clarify that all contracts for water will remain subject to § 303.22, *Allocations to Accounts*. The comment period on this proposal will close on September 16, 2013.

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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 September 27, 2013.

**TCEQ Advanced Air Permitting Seminar and Oil & Gas Facilities Workshop.** This [Seminar and Workshop](#), which will be held on September 25-26, 2013, will provide updates on air permitting rules, requirements, and issues for a variety of industries. The Workshop will focus on current air permitting issues as they relate to oil and gas facilities.

**TCEQ Water Quality/Stormwater Seminar.** TCEQ will sponsor a [Water Quality and Stormwater Seminar](#) in Austin on October 3-4, 2013. Topics include municipal, industrial, stormwater, and sludge permits; design criteria for domestic treatment facilities and collection systems; water conservation; industrial and municipal effluent reuse; and water quality standards development and implementation procedures.

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

**EPA Workshop - Integrated Science Assessment.** EPA is organizing a [workshop](#) to discuss policy-relevant science for its review of the secondary NO<sub>x</sub> and SO<sub>x</sub> NAAQS. This workshop will be held October 1-3, 2013 at Research Triangle Park, North Carolina.

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## **ALSO OF INTEREST**

**Effluent Guidelines.** EPA has released for public comment its Preliminary 2012 Effluent Guidelines Program Plan and its 2011 Annual Effluent Guidelines Review Report. The findings from the 2011 Annual Review were used to develop the Preliminary 2012 Effluent Guidelines Program Plan and will be used in developing the Final 2012 Plan. Comments on these [documents](#) must be submitted to EPA on or before October 7, 2013.

**Aquatic Life Ambient Water Quality Criteria.** EPA has released the final national recommended ambient water quality criteria for the protection of aquatic life from the effects of ammonia in freshwater ([EPA 822-R-13-001](#)).

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**CONTACT INFORMATION**

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