

Recent Developments

Information about Environmental Issues

July 2013

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

Water:

1. [78 Fed. Reg. 46006](#) (July 30, 2013). *National Pollutant Discharge Elimination System ("NPDES"): Electronic Reporting Rule*. EPA has proposed a rule that would require most facilities subject to reporting requirements to submit data electronically one year following the effective date of the final rule. Facilities with limited access to the Internet will have the option of one additional year for complying with the final year. The proposed electronic reporting rule would make facility-specific information, including inspection and enforcement history, pollutant monitoring results, and other data required by permits, accessible to the public through EPA's website. Comments on the proposed rule must be received by EPA on or before October 28, 2013.

Waste:

2. [78 Fed. Reg. 42875](#); [78 Fed. Reg. 42910](#) (July 18, 2013). *Toxics Release Inventory ("TRI") Reporting*. EPA has published a Direct Final Rule that updates the list of North American Industry Classification System ("NAICS") codes subject to TRI reporting. The rule would require facilities to use 2012 NAICS codes when reporting, beginning with TRI reporting forms that are due on July 1, 2014, which cover releases and other waste management quantities for the 2013 calendar year. Unless EPA receives adverse comment to the Proposed Rule, published concurrently, by August 19, 2013, the Direct Final Rule will become effective on October 16, 2013.

3. [78 Fed. Reg. 46448](#) (July 31, 2013). *Solvent-Contaminated Wipes*. This Final Rule, effective January 31, 2014, revises the definition of *solid waste* to conditionally exclude solvent-contaminated wipes that are cleaned and reused, and revises the definition of *hazardous waste* to conditionally exclude solvent-contaminated wipes that are disposed. In this Final Rule, EPA distinguishes between two categories of wipes: (1) *reusables*, which are laundered or dry cleaned and reused, and (2) *disposables*, which are disposed in a landfill or combustor. Entities potentially affected by this rule include, among others, chemical and allied product manufacturing, plastics and rubber, fabricated metal products, industrial machinery and equipment, and electronics and computer manufacturing.

* * * * *

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ")

Waste:

1. [38 Tex. Reg. 4300](#) (July 5, 2013). *30 T.A.C. Chapter 336, Radioactive Substance Rules.* Proposed amendments to § 336.1115 would amend the decommissioning standards that are applicable to uranium mining sites and by-product disposal sites in order to conform the standards to federal requirements. Written comments may be submitted to the TCEQ until August 5, 2013.

2. [38 Tex. Reg. 4379](#) (July 5, 2013). *30 T.A.C. Chapter 336, Radioactive Substance Rules.* The TCEQ has adopted new § 336.227, effective July 11, 2013, which establishes an exemption from the TCEQ's low-level radioactive waste licensing requirements for the disposal of certain radioactive tracers used in the exploration, development or production of oil and gas resources.

Water:

3. [38 Tex. Reg. 4377](#) (July 5, 2013). *30 T.A.C. Chapter 297, Water Rights, Substantive.* An amendment to § 297.1 has been adopted that revises the definition of "municipal use" to allow indirect reuse of treated wastewater effluent for watering parks, golf courses, and parkways after that use of return flows has been authorized by the TCEQ. The effective date of this amendment is July 11, 2013.

* * * * *

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.

* * * * *

ALSO OF INTEREST

EPA Administrator. Gina McCarthy was confirmed by the U.S. Senate as the new Administrator of the EPA on July 18, 2013.

Semiannual Regulatory Agenda. EPA has published its [Spring 2013 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.

World Energy Supply. The U.S. Energy Information Administration released [International Energy Outlook 2013](#), which projects world energy supply and demand through 2040.

Federal Reference Method for Lead. EPA has established a new [Federal Reference Method](#) for measuring lead in total suspended particulate matter that is collected from ambient air. This new method will be used by analytical laboratories to support data collection for the lead NAAQS.

Risk-Based NAPL Management. This TCEQ [publication](#) explains the risk-based management approach for non-aqueous phase liquid under the Texas Risk Reduction Program rule, and presents a five-step process to address the rule requirements.

Joint Groundwater Monitoring and Contamination Report. This [annual report](#), prepared by the Texas Groundwater Protection Committee ("TGPC"), describes the current status of groundwater monitoring activities conducted by each member of the TGPC at regulated facilities or associated with regulated activities. The report includes a list of 3,627 groundwater contamination cases documented or under enforcement during the 2012 calendar year and includes the enforcement status of each case.

* * * * *

Advanced Review of Compliance History ("ARCH"). On September 1st of each year, the TCEQ calculates compliance history ratings and determines the compliance history classifications for all regulated entities. After the TCEQ completes its internal quality assurance process, the information is made available online to registered ARCH users that allows authorized representatives of TCEQ customers to review and comment on their compliance history information during a 30-day period prior to publication of that information on the TCEQ's website. [Registration](#) for the ARCH program is available only during August 1-31 of each year. The compliance history review will be available for review by registered ARCH users beginning on September 15, 2013.

* * * * *

* * * * *

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
Nick Graham	512.322.2538
Amber MacIver	512.322.2597
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
William Airhart	713.229.1169
Zachary Craft	713.229.1133
Kim Tuthill	713.229.1166
Kathleen Weir	713.229.2108

WASHINGTON, D.C.:

Pat Berry	202.639.7746
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
Christopher Danley	202.639.7842
Brook Detterman	202.639.7763
Megan Heuberger Berge	202.639.1308
Michael McGovern	202.639.7797
Michael Schon	202.639.7707
Martha Thomsen	202.639.7863
Allison Watkins	202.639.7754
Christine Wyman	202.639.7767

* * * * *