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EPA Reduces Hydrochlorofluorocarbon (“HCFC”) Production & Consumption Allowances

With a December 15, 2009 final rule, the Environmental Protection Agency (“EPA”) continued to phaseout HCFCs in accordance with the Montreal Protocol and Title VI of the Clean Air Act. Effective January 1, 2010, the rule establishes an annually declining baseline for HCFC-22 of 41.9 % in 2010 to 26.1 % in 2014. HCFC-142b will be allocated at 0.47 % of its baseline for the same period. For the first time, EPA also set allowances for HCFCs-123, 124, 225ca, and 225cb, but at 125% of the applicable baseline to avoid market disruptions. Nevertheless, these allocations will allow the U.S. to meet the Protocol’s 75% aggregated HCFC baseline reduction targets for the 2010 – 2014 compliance period. [74 Fed. Reg. 66,412](#).

EPA Bans Appliances Pre-Charged with HCFC-22 and -142b

On the same day it issued the HCFC allocation rule, EPA also banned the sale or distribution of air-conditioning and refrigeration appliances or their components manufactured **on or after January 1, 2010**, that are pre-charged with HCFC-22, HCFC-142b or blends thereof. The ban applies regardless whether the HCFCs were produced before 2010 or were reclaimed. Stockpiled or used appliances may continue to be sold, and stockpiled components may be used to service appliances manufactured before January 1, 2010, but may not be used to create new appliances. [74 Fed. Reg. 66,450](#).

EPA Finalizes Asphalt Processing and Roofing Area Source Rule

The final rule allows facilities that process or refine asphalt, or manufacture asphalt roofing products to use generally achievable control technology (“GACT”) to control emissions of polycyclic aromatic hydrocarbons (“PAH”) and particulate matter (PM) from their operations. Industry commenters argued that the GACT standard would be more stringent than the maximum achievable control technology (“MACT”) standard currently in effect for major sources in the industry. . According to EPA, however, GACT standards are not always less stringent than a previously-promulgated MACT, particularly if the MACT is more than 6 years old. Moreover, the MACT applies to total hazardous air pollutant emissions, whereas the area source rule limits PAH and PM. . The asphalt and roofing rule does exempt the area sources from Title V permitting requirements, but existing facilities have only a year or until December 2, 2010, to come into compliance. [74 Fed. Reg. 63236 \(Dec. 2, 2009\)](#).

EPA Finalizes Limits on Construction Site Stormwater Discharges

The December 1, 2009, final rule sets effluent limitation guidelines (“ELGs”) and new source performance standards (“NSPS”) to control pollutant discharges from construction sites. The rule applies to discharges from common construction activities such as site clearing, excavating, and grading, as well as the improper use of stormwater control measures, that can contribute sediment, turbidity and nutrients to surface waters, aquatic ecosystems and drinking water supplies. Although the National Pollutant Discharge Elimination System (“NPDES”) program requires permits and the use of sediment, erosion, and stormwater controls during construction activities, no national performance standard or monitoring requirements existed. The construction ELGs must be incorporated into permits issued by EPA or the states **by February 1, 2010**. EPA is not mandating the use of specific technologies, but all construction site owners and operators must implement best management practices to achieve non-numeric and numeric effluent limitations. **Beginning August 1, 2011**, activities disturbing 20 or more acres of land at one time must comply with a 280 nephelometric turbidity units (NTU) limitation, whereas disturbances of between 1- and 20 acres will have **until February 2, 2014** to meet the 280 NTU limit. [74 Fed. Reg. 62,996](#).

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