



# **2014 U.S. ENVIRONMENTAL POLICY OUTLOOK: A STRONGER EPA?**

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## KEY THEME FOR 2014

- Expanding or limiting EPA's authority under various statutes; questions of federal vs. state jurisdiction
- Several rules and resulting court decisions this year and in coming years will be critical to defining the scope of EPA's jurisdiction
- These issues are not new, but several developments in the year ahead could mark a significant shift one way or the other (toward expansion or limits)

# AGENDA

- Briefly review key legal and policy developments expected in 2014 in several areas and, where relevant, how they tie into the question of expanding or limiting EPA's authority
- Air, climate, renewables/efficiency, water, chemicals/waste, fracking

# AIR

- EPA to propose new rule to address interstate transport of air pollution as Supreme Court considers previous rule; EPA seeking to cover sources beyond power plants
- D.C. Circuit to issue ruling in challenge to EPA's mercury and air toxics standard
- Both cases could further define the limits of EPA's authority under the Clean Air Act
- EPA to propose new ozone standards; groups seek December deadline

# CLIMATE

- EPA rule to limit carbon emissions from new power plants repropoed in January; proposed rule for existing plants expected in June
- EPA considering "system-wide" regulations for existing plants
- Supreme Court to review whether limits on greenhouse gas emissions from vehicles automatically trigger permitting requirements for large stationary sources
- Congressional Republicans will continue efforts to block President Obama's climate agenda

# RENEWABLES/EFFICIENCY

- Congress expected to eventually extend many of the clean energy tax incentives that expired at the end of 2013
- Administration considering expanding scope of Real Estate Investment Trusts to include renewable energy facilities
- Chance for limited energy efficiency legislation in 2014; DOE expected to propose/finalize various efficiency standards
- EPA to finalize 2014 requirements under Renewable Fuel Standard; Congress will continue efforts to reform the standard

# WATER

- EPA and U.S. Army Corps of Engineers to propose rule modifying the definition of “waters of the United States” under the Clean Water Act
- Rule could expand the scope of waters subject to Clean Water Act protection
- EPA under court deadlines to issue final effluent guidelines to control release of toxic pollutants from fossil fuel-fired power plants and performance standards for cooling water intake structures
- Water resources legislation to fund infrastructure projects expected to pass in 2014 with bipartisan support

# CHEMICALS/WASTE

- Could this be the year for TSCA reform? W. Va., other incidents could spur action, but hurdles remain
- Senate bill would expand EPA's authority to regulate chemicals; House version expected in spring; key issue = state preemption
- W. Va. spill likely to continue fueling demand for more data on chemicals to be in the public realm
- EPA expected to take action on regulating chemicals in products, confidential business information, risk assessment, nanomaterials
- Key waste issues -- final rules expected on management of coal ash and definition of solid waste



# FRACKING

- BLM to issue final rule updating requirements for oil and gas exploration and production on federal lands, with a primary focus on fracking
- States/industry argue rule is unnecessary as states already regulate federal and other lands within their border; Republicans seek legislative limits
- EPA close to issuing final guidance on regulation of fracking when diesel fuels used in fracking fluid
- Courts continue to define state vs. local jurisdiction in setting limits on fracking

# CONCLUSION

- As in previous years, most environmental policy developments will be driven by regulation and litigation, not legislation
- The administration's environmental priorities could come into clearer view with the upcoming budget and State of the Union address
- There's always the potential for Congress to break through its gridlock and pass significant environmental legislation; disasters can spur action
- Court rulings will help define the scope of EPA's authority in several key issue areas
- But the push and pull of expanding or limiting EPA's jurisdiction under environmental laws and questions of federal vs. state control will persist

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# THANK YOU!

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