

Texas Environmental Update

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The environmental practice of Bracewell & Giuliani LLP offers seamless, front-rank representation in local, state, national, and cross-border regulatory, enforcement, and litigation matters, as well as experienced counsel on the environmental aspects of transactions and operations across the country and around the world. We are dedicated to helping clients successfully navigate complex and costly environmental issues and to building longstanding client relationships founded on superior advice, integrity, and value. We are pleased to provide you with this issue of Bracewell & Giuliani's Texas Environmental Update, offering the latest news about permitting, enforcement, regulatory developments, and other matters of interest to the regulated community in Texas.

BRACEWELL & GIULIANI ALERTS AND PUBLICATIONS

EPA Issues Final Rule That Will Impact Oil & Gas and Refining Industries

Bracewell & Giuliani Energy Legal Blog, August 18, 2011

"On August 16, 2011, EPA released a final rule that will impact chemical companies such as those that manufacture chemicals used in the oil and gas production or refining industries. The final rule will modify the Toxic Substances Control Act (TSCA) Inventory Update Reporting (IUR) rule (76 Fed Reg. 50,816 – Aug. 16, 2011). Known [...]"

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' August 31, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' August 31, 2011 Agenda Meeting Webcast

TexasAdmin.com

Commissioners' August 17, 2011 Agenda Meeting Webcast

TexasAdmin.com

[top](#)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

Air Test Reveals Traces of EDB

Denton Record-Chronicle, August 21, 2011

"Neighbors in the Argyle-Bartonville area want a federal investigation after a chemical traditionally used as a pesticide and gasoline additive started turning up in air samples near natural gas drilling and production sites."

[top](#)

Enforcement

TCEQ Approves Fines Totaling \$390,472

TCEQ Web Site, August 31, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$390,472 against 73 regulated entities for violations of state environmental regulations."

TCEQ Approves Fines Totaling \$904,545

TCEQ Web Site, August 17, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$904,545 against 91 regulated entities for violations of state environmental regulations."

Permitting

Opposite Sides Try to Clear the Air

Times Record News (Wichita Falls), August 29, 2011

"The sides were clearly drawn last week in a public meeting on the air quality permit application for a sand mine in Cooke County."

U.S. Ecology Texas, Inc. Officials Tout Safety of Robstown Facility

Corpus Christi Caller-Times, August 26, 2011

"CORPUS CHRISTI - Officials from a hazardous waste disposal and landfill facility in Robstown on Thursday told about 50 people at a public meeting that their facility is safe, highly regulated and ready to expand."

[top](#)

Regulatory Developments

Proposed Changes to Air Quality Permits Announced

TCEQ Web Site, August 30, 2011

"The TCEQ is publishing a proposed revision to permitting in the Texas Register amending the current non-rule standard permit for the construction and/or modification of oil and gas production facilities."

TCEQ Opens Public Comment Period on Revised Penalty Policy Proposal

TCEQ Web Site, August 29, 2011

"Beginning today the Texas Commission on Environmental Quality is accepting comments on a proposal to revise the agency's penalty policy that was presented to commissioners at the Aug. 25, 2011 work session."

What's New in TCEQ Rules

TCEQ Web Site, August 26, 2011

[top](#)

Water

Texas Drought Could Threaten Endangered Species

MyWestTexas.com, August 30, 2011

"Federal officials are readying plans to evacuate a small number of endangered species in Texas as a severe drought lowers water levels and threatens the survival of rare wildlife in the state's huge ecosystem."

Parched Tarrant County Cities Moving to Control Water Usage by Drillers

Fort Worth Star-Telegram, August 29, 2011

"While most Tarrant County cities imposed watering restrictions on residents Monday because of the intense drought, Grand Prairie, Arlington and other cities are taking steps to control a new major user of the precious resource: natural gas drillers."

EPA Continuing to Sample Chromium Contamination

MyWestTexas.com, August 23, 2011

"An answer for residents affected by hexavalent chromium contamination still could be a few years away, an Environmental Protection Agency official said Tuesday."


Ranchers Say Water for Fracking Isn't the Problem

San Antonio Express-News, August 18, 2011

"DILLEY - Ranchers say the large amounts of water used to hydraulically fracture wells in South Texas just adds to their worries about water usage in the middle of a historic drought."

[top](#)

BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT

Notice of Availability of a Final Supplemental Environmental Impact Statement, Outer Continental Shelf, Alaska OCS Region, Chukchi Sea Planning Area, Oil and Gas Lease Sale 193 

76 Federal Register 53481, August 26, 2011

[top](#)

EPA

Final Rule, Review of National Ambient Air Quality Standards for Carbon Monoxide 

76 Federal Register 54294, August 31, 2011

Proposed Rule; Announcement of Public Hearings; Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews 

76 Federal Register 53371, August 26, 2011

Extension of Comment Period, Definition of Solid Waste 

76 Federal Register 53376, August 26, 2011

Final Rule, Change to the Reporting Date for Certain Data Elements Required Under the Mandatory Reporting of Greenhouse Gases Rule 

76 Federal Register 53057, August 25, 2011

Proposed Rule, Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews 

76 Federal Register 52738, August 23, 2011

EPA Accepts First GHG Reporting Data

EPA Web Site, August 22, 2011

"WASHINGTON - Today, the U.S. Environmental Protection Agency is launching a new tool to allow 28 industrial sectors to submit their 2010 greenhouse gas (GHG) pollution data electronically."

New EPA Rule Could Lead to Rolling Blackouts in Texas, PUC Chairwoman Says

Fort Worth Star-Telegram, August 19, 2011

"The head of the Texas Public Utility Commission expressed concern Friday that a new federal air quality rule, set to take effect Jan. 1, will cause disruptions in electric service."

Notification of a Public Teleconference of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel 

76 Federal Register 51365, August 18, 2011

[top](#)

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Advance Notice of Proposed Rulemaking, Pipeline Safety: Safety of Gas Transmission Pipelines 

76 Federal Register 53086, August 25, 2011

[top](#)

TEXAS RAILROAD COMMISSION

Texas Agency Hears Draft Rules for Hydraulic Fracturing Disclosure

Platts.com, August 29, 2011

"The Texas Railroad Commission on Monday began the process of adopting a set of rules that would require oil and gas well operators to disclose the chemicals used in hydraulic fracturing operations."

PUC Vet Now Working on the Railroad Commission

Houston Chronicle, August 26, 2011

"The deregulation of Texas' electric markets started well before Barry Smitherman joined the state's Public Utility Commission in 2004, but the former Harris County prosecutor was in the thick of the toughest challenges of that transition."

Texas AG Will Take Up Railroad Commission's Cause Against EPA

LegalNewsline.com, August 26, 2011

"AUSTIN, Texas - A spokeswoman for Texas Attorney General Greg Abbott says the office pledges to oppose a new air rule by the federal Environmental Protection Agency."

Eagle Ford Task Force Meets to Discuss Goals and Tackle Work Force Issues

Railroad Commission Web Site, August 25, 2011

"AUSTIN - The Eagle Ford Task Force (EFTF), appointed by Texas Railroad Commissioner David Porter, convened yesterday at Coastal Bend College in Beeville to outline its goals and engage in a productive discussion regarding work force issues related to the development of the Eagle Ford Shale."

[top](#)

OTHER TEXAS ENVIRONMENTAL NEWS

Breast Cancer Rate Climbs Up

Denton Record-Chronicle, August 31, 2011

"Invasive breast cancer is on the rise in Denton County and five neighboring counties, even as the incidence rate for the disease is lower in the state and falling across the rest of the nation."

Drilling Raises Some Unease

Denton Record-Chronicle, August 27, 2011

"Clean air, clean water, stable property values."

Power Plant Troubles Go Beyond Heat and Drought

Houston Chronicle, August 25, 2011

"A prolonged drought, looming environmental rules and shortcomings in the incentives for building new power plants could cause even more problems with Texas' electric grid in the next year."

Cornyn Talks Sagebrush Lizards, Government Intrusions at Midland Appearance

MyWestTexas.com, August 24, 2011

"Pioneer Natural Resources on Wednesday played host to Sen. John Cornyn, displaying technology the company uses to produce Permian Basin crude and natural gas."

[top](#)

REPORTS

Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill

EPA Office of Inspector General Page, August 25, 2011

"The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), received two separate Hotline complaints regarding the use of dispersants in response to the Deepwater Horizon oil spill in the Gulf of Mexico."

EPA's Gulf Coast Oil Spill Response Shows Need for Improved Documentation and Funding Practices

EPA Office of Inspector General Page, August 25, 2011

"The purpose of our review was to evaluate U.S. Environmental Protection Agency (EPA) management controls for ensuring EPA's costs for responding to the Gulf Coast oil spill are tracked and recovered."

Department of Energy: Final Plan for Retrospective Analysis of Existing Rules

White House Web Site, August 23, 2011

"The Department of Energy (DOE or the Department) is committed to maintaining a consistent culture of retrospective review and analysis."

Department of the Interior: Plan for Retrospective Regulatory Review 


White House Web Site, August 2011

"This plan implements President Obama's Executive Order 13563 of January 18, 2011, 'Improving Regulation and Regulatory Review,' which seeks to make the U.S. Government's regulatory system work better for the American public."

Improving Our Regulations: Final Plan for Periodic Retrospective Reviews of Existing Regulations [EPA] 

White House Web Site, August 2011

"In this Plan, EPA defines 35 regulatory reviews for our initial review period."

Evaluation of the Use of Hindcast Model Data for Oil-Spill Risk Analysis (OSRA) in a Period of Rapidly Changing Conditions 

BOEMRE Web Site, June 30, 2011

"The workshop and report were completed in partial fulfillment of the overall goal to develop scientific recommendations that BOEMRE can use as guidance to prepare projects in its study planning process."

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