

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

House Energy Hearings to Review Solyndra and DOE Loan Guarantee Program

Bracewell & Giuliani Energy Legal Blog, September 13, 2011

The House Energy and Commerce Committee's Subcommittee on Oversight and Investigations will hold a hearing on Wednesday, September 14 at 9:30 a.m. on Solyndra and the DOE loan guarantee program. Solyndra is a solar panels manufacturer based in California that received a \$535 million loan guarantee from the Department of Energy. Those invited to testify [...]

Luminant to Close Coal Plants Due to EPA Rule

Bracewell & Giuliani Energy Legal Blog, September 12, 2011

Despite facing clear reliability problems because of record temperatures in Texas, Luminant said today they will close facilities to comply with EPA's Cross-State Air Pollution Rule, which will cause the loss of approximately 500 jobs. The rule, which EPA released earlier this summer, requires Texas power generators to make dramatic reductions in emissions beginning January [...]

Obama Retreat on Ozone Unlikely to Signal Shift on Other Regulations

Bracewell & Giuliani Energy Legal Blog, September 8, 2011

Bracewell & Giuliani partner Rich Alonso appeared on E&E TV's OnPoint program to discuss the Obama administration's recent retreat on ozone standards, and whether this signals a shift on greenhouse gas regulations. Alonso and E&E TV managing editor Monica Trauzzi also discussed other issues of concern to the energy industry, including Utility MACT, NSPS proposals [...]

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NOTICES AND ANNOUNCEMENTS

[TCEQ Schedules Compliance History Public Meeting](#)

TCEQ Web Site, September 6, 2011

"The Texas Commission on Environmental Quality is hosting a public stakeholder meeting on Sept. 22, 2011 to discuss the agency's activities to amend 30 TAC Chapter 60, Compliance History, to implement Article 4, House Bill 2694, 82nd Legislature, regular session, 2011."

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

[Commissioners' September 21, 2011 Meeting Agenda](#)

TCEQ Web Site

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

[Harris County Sues ExxonMobil Chemical Plant, Alleging Emissions Violations](#)

Your Houston News, September 14, 2011

"Harris County Attorney Vince Ryan has filed suit against ExxonMobil Chemical Co., alleging that ExxonMobil has violated the Texas Clean Air Act."

[Fort Worth Group Attacks Air Study](#)

KERA, September 13, 2011

"DALLAS, TX - A group of gas drilling critics calls Fort Worth's recent air quality study flawed, manipulative and misleading."

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Regulatory Developments

[What's New in TCEQ Rules](#)

TCEQ Web Site, September 9, 2011

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Water

LCRA Directors May Ask for OK to Cut Water for Farmers

Austin American-Statesman, September 14, 2011

"Farmers downstream from Austin may be without any water from the Colorado River as a crippling drought shrinks water reserves in a major water source for Central Texans."

New Aquifer Fee Is Drawing Opposition

San Antonio Express-News, September 14, 2011

"Far from the San Marcos and Comal springs that harbor endangered species, resistance is mounting to a new fee proposed for some Edwards Aquifer pumpers to help protect those species, and the pumpers as well."

Editorial: Oklahoma and Texas Could Gain a Lot From Interstate Water Sales

Dallas Morning News, September 13, 2011

"To our good friends in Oklahoma, we say this: Our two states could get into an expensive legal tussle over whether the Interstate Commerce Clause affects water sales to North Texas."

Editorial: State Must Pay for a Water Plan

San Antonio Express-News, September 6, 2011

"Texas lawmakers approved a dynamic state water plan more than 14 years ago."

Is Our Wastewater Going to Waste?

San Angelo Standard-Times, September 3, 2011

"SAN ANGELO, Texas - If Central West Texas hasn't gotten a sizable amount of rainfall by this time next year - which the state climatologist has said is not only possible, but likely - San Angelo's two main water supplies will be nearly dry."

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BUREAU OF LAND MANAGEMENT

BLM to Initiate Rulemaking on Oil, Gas Provision

MyWestTexas.com, September 9, 2011

"DENVER (AP) - The Bureau of Land Management plans to write new guidelines for using a provision that allows for speedier environmental reviews of oil and gas development on public land following a judge's order to stop using its existing guidance."

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BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT

Spill Report Sets Stage for New Offshore Rules

Houston Chronicle, September 14, 2011

"WASHINGTON - In highlighting a series of failures that culminated in the Deepwater Horizon disaster, federal investigators on Wednesday paved the way for new rules on offshore drilling safety."

Proposed Rule, Oil and Gas and Sulphur Operations in the Outer Continental Shelf - Revisions to Safety and Environmental Management Systems

76 Federal Register 56683, September 14, 2011

Deepwater Horizon Joint Investigation Team Releases Final Report

BOEMRE Web Site, September 14, 2011

"NEW ORLEANS - The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)/U.S. Coast Guard Joint Investigation Team (JIT) today released its final investigative report on the April 20, 2010, Deepwater Horizon explosion, loss of life, and resulting oil spill."

Regulator Confronts Critics in Oil Industry

Houston Chronicle, September 13, 2011

"WASHINGTON - The government moved Tuesday to stiffen safety requirements for offshore oil and gas drilling, as a top regulator took aim at critics in the industry who insist the U.S. takes too long to approve coastal energy projects."

BOEMRE Director Delivers Final Speech Before Agency Reorganization

BOEMRE Web Site, September 13, 2011

"WASHINGTON - Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) Director Michael R. Bromwich delivered remarks today at the Center for Strategic and International Studies (CSIS) Energy and National Security Program."

BOEMRE Director Bromwich Names Key Career Leadership for New Agencies

BOEMRE Web Site, September 12, 2011

"WASHINGTON - Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) Director Michael R. Bromwich today announced several key appointments to high-level positions in the two new, independent agencies that will carry out the offshore energy management and enforcement functions currently under the jurisdiction of BOEMRE."

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EPA

Greenhouse Gas Proposal to Miss Deadline: EPA Chief

Reuters, September 15, 2011

"The Environmental Protection Agency will miss an end-of-month target for proposing greenhouse gas regulations for power plants, the head of the EPA said on Wednesday."

Withdrawal of Direct Final Rule, Approval and Promulgation of Implementation Plans; Texas; Revisions to Permits by Rule and Regulations for Control of Air Pollution by Permits for New Construction or Modification

76 Federal Register 56982, September 15, 2011

Announcement of Federal Underground Injection Control (UIC) Class VI Program for Carbon Dioxide (CO2) Geologic Sequestration (GS) Wells

76 Federal Register 56982, September 15, 2011

Texas Electric Suppliers Warn They Might Not Meet EPA Deadline

Houston Chronicle, September 14, 2011

"WASHINGTON - Texas electricity providers may not have enough time to meet the January start date for an EPA rule that limits certain emissions that could threaten health across state lines, the head of the state's grid operator said Wednesday."

Court Considers Forcing EPA to Clean Air in Texas

Beaumont Enterprise, September 14, 2011

"HOUSTON (AP) - An environmental group has submitted for federal court approval a consent decree that would require the Environmental Protection Agency to enforce clean air laws in Texas by the end of the year."

Would Looser Environmental Regulations Help the Economy?

Fort Worth Star-Telegram, September 13, 2011

"WASHINGTON - Republicans in the House of Representatives are waging an all-out war to block federal regulations that protect the environment."

Proposed Rule, Mandatory Reporting of Greenhouse Gases: Technical Revisions to the Electronics Manufacturing and the Petroleum and Natural Gas Systems Categories of the Greenhouse Gas Reporting Rule

76 Federal Register 56010, September 9, 2011

Technical Correction, Hazardous Waste Management System: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities

76 Federal Register 55846, September 9, 2011

Correction, TSCA Inventory Update Reporting Modifications; Chemical Data Reporting 

76 Federal Register 54932, September 6, 2011

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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Final Rule, Hazardous Materials: Minor Editorial Corrections and Clarifications 

76 Federal Register 56304, September 13, 2011

Notice; Issuance of Advisory Bulletin; Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by the Passage of Hurricanes 

76 Federal Register 54531, September 1, 2011

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TEXAS RAILROAD COMMISSION

Railroad Commissioner Barry T. Smitherman Slams EPA for Killing at Least 500 Texas Jobs With CSAPR Rule

Railroad Commission Web Site, September 12, 2011

"AUSTIN - Because of the EPA's unscientific Cross-State Air Pollution Rule (CSAPR), Luminant announced the closure of two critical electric generating units, Monticello I and Monticello II, effective Jan. 1, 2012."

Commissioners Court Joins Residents in Disposal Well Fight

Victoria Advocate, September 12, 2011

"Victoria County residents received their commissioners court's backing in the fight against a disposal well."

Chisum Faces Familiar Opponent

Amarillo Globe-News, September 3, 2011

"AUSTIN - For retiring state Rep. Warren Chisum, getting a seat in the three-member Texas Railroad Commission is proving harder than initially envisioned."

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OTHER TEXAS ENVIRONMENTAL NEWS

Shell, UT to Study Better Shale Production Methods

Houston Chronicle, September 13, 2011

"Shell Oil is donating \$7.5 million to establish a program at the University of Texas at Austin to study improved

methods for extracting oil and gas from unconventional rock formations containing vast energy resources."

Comptroller Tracking the Impact of Endangered Species Regulations in Texas

San Antonio Business Journal, September 13, 2011

"Texas Comptroller Susan Combs has created a new Web site to gauge the economic impact of proposed federal environmental regulations on land and business owners."

Texas Was Warned About Risk of Building in Backcountry

Austin American-Statesman, September 10, 2011

"In 1984, when a wildfire blackened 900 acres of Bastrop County's Tahitian Village, residents counted themselves lucky."

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REPORTS

Staff Report: Broken Government: How the Administrative State Has Broken President Obama's Promise of Regulatory Reform

U.S. House of Representatives Committee on Oversight and Government Reform Web Site, September 14, 2011

"In the wake of stagnant job creation, an unacceptably high unemployment rate and growing concern that our country is marching towards another recession, the House Committee on Oversight and Government is continuing its examination of regulations that are acting as impediments to job creation."

The Economic Impacts of Prohibiting Coal Fly Ash Use in Transportation Infrastructure Construction

American Road & Transportation Builders Association, September 2011

"There are a number of well documented benefits from replacing a portion of the cement with fly ash to create a cementitious material that is then used along with aggregates, water and various other components, to produce concrete for roads and bridges."

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