

Texas Environmental Update

By: **Richard Alonso, Kevin A. Ewing, Tracy D. Hester, Jeffrey R. Holmstead, Jason B. Hutt, and Tim Wilkins.**

June 30, 2011

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.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' July 5, 2011 Work Session Agenda

TCEQ Web Site

Commissioners' June 22, 2011 Agenda Meeting Webcast

TexasAdmin.com

top

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

Editorial: Texans Must Force TCEQ to Get Serious About Air Quality

Dallas Morning News, June 24, 2011

"The lazy, hazy days of June are a little too hazy in these parts."

top

Enforcement

TCEQ Approves Fines Totaling \$600,639

TCEQ Web Site, June 22, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$600,639 against 96 regulated entities for violations of state environmental regulations."

[top](#)

Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, June 24, 2011

[top](#)

Water

TCEQ Restricts Additional Junior Water Rights

TCEQ Web Site, June 27, 2011

"Drought conditions continue to be widespread across the state."

TCEQ Says Drought Planning Essential

TCEQ Web Site, June 23, 2011

"Drought conditions are widespread across the state of Texas and may worsen."

[top](#)

BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT

Final Rule, Oil and Gas and Sulphur Operations in the Outer Continental Shelf - Civil Penalties

76 Federal Register 38294, June 30, 2011

BOEMRE Information Collection Activity: Geological and Geophysical (G&G) Explorations of the OCS, Revision of a Collection; Comment Request

76 Federal Register 38412, June 30, 2011

Gulf Oil, Natural Gas Lease Sale on Track for Spring

Houston Chronicle, June 29, 2011

"WASHINGTON - The federal government is on track to sell oil and gas leases in the central Gulf of Mexico next spring, after completing a new environmental analysis of the region prompted by the Deepwater Horizon disaster."

BOEMRE Completes Draft Supplemental EIS for Central Gulf of Mexico Lease Sale

BOEMRE Web Site, June 29, 2011

"NEW ORLEANS - The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) today released a Draft Supplemental Environmental Impact Statement (SEIS) for proposed oil and gas Lease Sale 216/222 in the Central Planning Area in the Gulf of Mexico."

[top](#)

EPA REGION 6

EPA Selects Sites in Louisiana and Texas for National Study on Hydraulic Fracturing

Region 6 Web Site, June 23, 2011

"(DALLAS – The U.S. Environmental Protection Agency (EPA) today, in keeping with the Administration's focus on ensuring that domestic resources are leveraged safely and responsibly, announced the next steps in its congressionally mandated hydraulic fracturing study."

[top](#)

EPA

EPA Defends Timetable for Fracturing Probe

Houston Chronicle, June 28, 2011

"WASHINGTON - The Environmental Protection Agency on Tuesday defended its plan for studying how drinking water may be affected by the hydraulic fracturing process used to extract natural gas from underground rock formations."

EPA Edges Closer to Measures to Reduce Air Pollution From Coal Plants

Fort Worth Star-Telegram, June 28, 2011

"WASHINGTON - After years of delays and false starts under both Democratic and Republican administrations, the Environmental Protection Agency is close to finishing two measures to reduce pollution from coal-fired power plants."

Final Rule, Standards of Performance for Stationary Compression Ignition and Spark Ignition Internal Combustion Engines

76 Federal Register 37954, June 28, 2011

Proposed Rule, Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems: Revisions to Best Available Monitoring Method Provisions

76 Federal Register 37300, June 27, 2011

Update on Waters of the U.S. Draft Guidance

EPA Web Site, June 27, 2011

"WASHINGTON - The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers have extended the public comment period by 30 days for the draft guidance on Identifying Waters Protected by the Clean Water Act."

EPA Announces Timeline for Reconsideration of Air Toxics Standards for Boilers and Certain Incinerators

EPA Web Site, June 24, 2011

"WASHINGTON – As part of a filing with the US Court of Appeals for the DC Circuit, the U.S. Environmental Protection Agency (EPA) has set a schedule for issuing updated air toxics standards for boilers and certain solid waste incinerators."

Federal Agencies to Improve Coordination to Support Energy Development and Safeguard Air Quality

EPA Web Site, June 24, 2011

"WASHINGTON – In keeping with President Obama's strategy to expand domestic oil and gas production safely and responsibly, the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior (DOI), and the U.S. Department of Agriculture (USDA) today released an interagency approach to address air quality issues associated with onshore oil and gas development on public lands."

EPA Identifies Case Studies for Hydraulic Fracturing Study

EPA Web Site, June 23, 2011

"WASHINGTON - The U.S. Environmental Protection Agency (EPA) today, in keeping with the Administration's focus on ensuring that domestic resources are leveraged safely and responsibly, announced the next steps in its congressionally mandated hydraulic fracturing study."

EPA Extends Public Comment on Mercury and Air Toxics Standards

EPA Web Site, June 21, 2011

"WASHINGTON - In response to requests from members of Congress and to encourage additional public comment, EPA today extended the timeline for public input by 30 days on the proposed mercury and air toxics standards, an extension that will not alter the timeline for issuing the final standards in November 2011."

[top](#)

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Final Rule, Pipeline Safety: Control Room Management/Human Factors

76 Federal Register 35130, June 16, 2011

[top](#)

OTHER TEXAS ENVIRONMENTAL NEWS

Texas Wetland Restoration Could Be Model for Gulf

MyWestTexas.com, June 30, 2011

"BAYTOWN, Texas (AP) - Brown pelicans, long-necked egrets, flamingo-like roseate spoonbills and squawking seagulls fly lazily around a Texas Gulf Coast island."

Corpus Christi Housing Authority Sues Companies It Claims Contaminated Public Housing Property

Corpus Christi Caller-Times, June 29, 2011

"CORPUS CHRISTI - The Corpus Christi Housing Authority is suing a contingent of companies it claims contaminated housing authority property on the Northside, preventing the agency from building new housing there."

Council Receives Feedback on Drilling, Pipeline Ordinances

Flower Mound Leader, June 21, 2011

"The Flower Mound Town Council and residents had their first chance to give their input Monday to drafts of the proposed new oil and gas drilling ordinance and the pipeline ordinance."

San Antonio Coal Plant to Be 1st in Texas to Close

Fort Worth Star-Telegram, June 20, 2011

"HOUSTON - A coal-fired power plant that has supplied electricity in San Antonio since the 1970s will be the first in Texas to shut down, the city and its electric company said Monday, an announcement that could put pressure on other energy suppliers to take similar steps."

[top](#)

REPORTS

Interim Report on the Effectiveness of Safety and Environmental Management Systems for Outer Continental Shelf Oil and Gas Operations

Transportation Research Board Web Site, June 24, 2011

"This letter report presents nine methods for evaluating the effectiveness of an operator's (i.e., lessee's) SEMS program, presents the benefits and disadvantages of each method, identifies entities that could perform the audits, specifies the range of potential roles and qualifications of the auditors and of the BOEMRE inspectors who will conduct or oversee the SEMS audits, or both, and presents various methods that could be employed to conduct the audits."

Toxic Waters Run Deep: Coal Ash Open Dumps Still Open for Business?

Environmental Integrity Project Web Site, June 23, 2011

"One major threat to groundwater quality is coal combustion waste, or coal ash."

State of the Climate in 2010

National Climatic Data Center Web Page, June 2011

"The primary goal of the annual State of the Climate collection of articles is to document the weather and climate events of the most recent calendar year and put them into accurate historical perspective, with a particular focus on unusual or anomalous events."

Extreme Weather and Climate Change: Understanding the Link, Managing the Risk

Pew Center on Global Climate Change Web Site, June 2011

"Typically, climate change is described in terms of average changes in temperature or precipitation, but most of the

social and economic costs associated with climate change will result from shifts in the frequency and severity of extreme events."

[top](#)