

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

New GHG Regulations for Minor Sources Create Major Regulatory Challenges

Bracewell & Giuliani Environmental Law Update, September 20, 2011

A host of industrial facilities across the country face being subject to permitting rules and other regulatory requirements under the Environmental Protection Agency's (EPA) Greenhouse Gas Tailoring Rule. The rule stands to impact facilities that were previously considered "minor" sources of air pollution - including gas processing plants, fractionating plants, compressor stations and other midstream energy assets[...]

Despite Delay, EPA Still Set to Release GHG Draft Rule

Bracewell & Giuliani Energy Legal Blog, September 20, 2011

As has been well reported, EPA will miss its September 30 deadline for releasing its draft rule on utility-focused greenhouse gas emissions. While a new deadline has not yet been announced for the rule, which focuses on reducing emissions from oil refineries and power plants, EPA administrator Lisa Jackson stated that reducing greenhouse gas emissions [...]

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NOTICES AND ANNOUNCEMENTS

Commissioners' October 5, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' September 21, 2011 Agenda Meeting Webcast

TexasAdmin.com

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Enforcement

TCEQ Enforcement Hits Businesses Big and Small

Corpus Christi Caller-Times, September 24, 2011

"CORPUS CHRISTI - Since 1998, businesses in Nueces County have been fined nearly \$6.8 million for environmental violations, making it the fourth-most fined area in the state."

TCEQ Approves Fines Totaling \$302,602

TCEQ Web Site, September 21, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$302,602, against 63 regulated entities for violations of state environmental regulations."

Permitting

Regulatory Uncertainty Hampers Domestic Nuclear Production

Corpus Christi Caller-Times, September 17, 2011

"CORPUS CHRISTI - Four years since applying for a permit to mine uranium in Goliad County and almost a year after receiving state permission to do so, a South Texas uranium production company waits while state and federal regulators haggle over environmental models and hypotheses."

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Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, September 16, 2011

Waste

Perry Critics Say Waste License Is a Case Study in 'Crony Capitalism'

Fort Worth Star-Telegram, September 24, 2011

"AUSTIN - In 2008, Larry Soward, one of three commissioners on Texas' environmental regulatory agency, cast the lone dissenting vote against licensing a controversial low-level nuclear disposal site in far West Texas."

Texas Commission on Environmental Quality: Ballard Pits No Longer a Public Threat

Corpus Christi Caller-Times, September 20, 2011

"CORPUS CHRISTI - Tests show all storage pits at the Ballard Pits site in Robstown have been located and no longer pose a threat to public health or the environment."

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Water

A Feud Over Texas Whooping Cranes

Bloomberg Businessweek, September 22, 2011

"In drought-stricken Texas, heavy water use by chemical plants, refineries, and cities has left less fresh water for estuaries downstream, helping raise salinity levels in the coastal marsh 175 miles southwest of Houston."

South Texas Rice Farmers Get Half of Water They Need

Victoria Advocate, September 21, 2011

"AUSTIN - Rice farmers in Matagorda County can breathe a sigh of relief, at least until the planting of the second crop next year."

Fish Rescued From Drought-Stricken Brazos River

Austin American-Statesman, September 18, 2011

"FORT WORTH - Wading through a muddy riverbed to reach shallow pools of water, biologists scooped up hundreds of minnows last week in one of the first rescues of fish threatened by the state's worst drought in decades."

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EPA REGION 6

Texas Petroleum Company Fined for a Second Time for Violating the Clean Water Act

Region 6 Web Site, September 27, 2011

"DALLAS - The Environmental Protection Agency (EPA) has fined the Texas Petroleum Company of Houston, Texas, \$134,895 for violating federal Spill Prevention Control and Countermeasure (SPCC) regulations outlined under the Clean Water Act."

EPA Settles Complaint Against Camterra Resources, Inc. for Violations of the Clean Water Act

Region 6 Web Site, September 26, 2011

"DALLAS - The Environmental Protection Agency (EPA) today announced it had settled a complaint against Camterra Resources, Inc., of Marshall, Texas, for violations of the Clean Water Act."

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EPA

EPA Has Hearing on Drilling, Fracking Regulations

Beaumont Enterprise, September 29, 2011

"ARLINGTON, Texas (AP) - Environmentalists and advocates for drilling companies were expected to face off Thursday when the Environmental Protection Agency holds a public hearing in Arlington on its proposed rules aimed at limiting pollution at oil and gas wells."

EPA's Response to Inspector General's Report on Endangerment Finding

EPA Web Site, September 28, 2011

"Today, the Office of Inspector General (OIG) released a report on EPA's process as it relates to the greenhouse gas endangerment finding. Some news accounts have mischaracterized the report's findings."

Combs: Federal Regulations Are Too Often Based on Flawed or Nonexistent Science

Fort Worth Star-Telegram, September 27, 2011

"The Texas economy has weathered some rough times in the last few years -- and proved its durability."

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

76 Federal Register 59533, September 27, 2011

Extension of Comment Period for Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur

76 Federal Register 59599, September 27, 2011

Commentary: EPA Gives Texas Short End of Pollution Limits Stick

Fort Worth Star-Telegram, September 24, 2011

"It has become fashionable for opponents to disagree on even simple facts, but there shouldn't be room for debate on the deadline for a new air pollution rule."

EPA Chief Warns Bill Would Gut Air Protections

San Antonio Express-News, September 23, 2011

"WASHINGTON - The chief of the U.S. Environmental Protection Agency said Thursday that Republican-sponsored proposals moving in the House would threaten the agency's ability to regulate toxic air emissions from power plants."

Texas Joins Effort to Delay Pending EPA Pollution Law

San Antonio Express-News, September 22, 2011

"WASHINGTON - Texas sued the U.S. Environmental Protection Agency on Wednesday in an effort to block a pending toxic-emissions rule that state officials say will cost jobs and raise the risk of electricity blackouts."

Proposed Consent Decree, Clean Air Act Citizen Suit 

76 Federal Register 58808, September 22, 2011

Proposed Rule, Approval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate Transport Requirements for the 1997 Ozone and the 1997 and 2006 PM2.5 NAAQS 

76 Federal Register 58748, September 22, 2011

Proposed Settlement Agreement, Clean Air Act Citizen Suit 

76 Federal Register 58507, September 21, 2011

Release of Risk and Exposure Assessment Planning Document for the Review of the National Ambient Air Quality Standards for Lead 

76 Federal Register 58509, September 21, 2011

Notice of the Availability of the Draft Framework for the U.S.-Mexico Environmental Program: Border 2020 

76 Federal Register 57983, September 19, 2011

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FISH AND WILDLIFE SERVICE

Hundreds of Plants, Animals Up for New Protections

Beaumont Enterprise, September 29, 2011

"BILLINGS, Mont. (AP) - The Obama administration is taking steps to extend new federal protections to a list of imperiled animals and plants that reads like a manifest for Noah's Ark - from the melodic golden-winged warbler and slow-moving gopher tortoise, to the slimy American eel and tiny Texas kangaroo rat."

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TEXAS RAILROAD COMMISSION

Porter: Texans Don't Fear Science; Neither Should the EPA

Fort Worth Star-Telegram, September 19, 2011

"This week the Environmental Protection Agency will begin collecting soil and water samples in the Barnett Shale region, specifically in Wise County, for what it is calling a study on hydraulic fracturing."

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OTHER TEXAS ENVIRONMENTAL NEWS

Massive Crowd Shows at Keystone XL Meeting in Port Arthur

Beaumont Enterprise, September 28, 2011

"Absent were the celebrities and environmental protesters seen at the White House over the summer."

Feds Give \$450 Million to Texas Clean Energy Plant

Fort Worth Star-Telegram, September 27, 2011

"HOUSTON - The U.S. Department of Energy has awarded \$450 million to a clean coal project planned for arid West Texas."

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REPORTS

Procedural Review of EPA's Greenhouse Gases Endangerment Finding Data Quality Processes

EPA Office of Inspector General Web Page, September 26, 2011

"The Ranking Member, Senate Committee on Environment and Public Works, requested that we determine whether the U.S. Environmental Protection Agency (EPA) followed key federal and Agency regulations and policies in developing and reviewing the technical data used to make and support its greenhouse gases endangerment finding."

EPA Should Clarify and Strengthen Its Waste Management Oversight Role With Respect to Oil Spills of National Significance

EPA Office of Inspector General Web Page, September 26, 2011

"The Office of Inspector General (OIG) evaluated the effectiveness of the U.S. Environmental Protection Agency's (EPA's) oversight of the Gulf Coast oil spill waste management plans and activities."

Draft Water for Texas 2012 State Water Plan

Texas Water Development Board Web Site, September 23, 2011

"This draft version of the 2012 State Water Plan is presented to give all Texans the opportunity to review the detailed analysis of water demands and supplies, and the efforts, projects, and strategies recommended to alleviate shortages."

CDP S&P 500 Report 2011: Strategic Advantage Through Climate Change Action

Carbon Disclosure Project Web Site, September 2011

"The Carbon Disclosure Project (CDP) sent its 2011 questionnaire to the S&P 500 companies on behalf of 551 signatory institutional investors representing \$71 trillion of assets."

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