

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.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NOTICES AND ANNOUNCEMENTS

TCEQ Schedules Enforcement Policy Public Meeting

TCEQ Web Site, July 19, 2011

" The Texas Commission on Environmental Quality is hosting a public stakeholder meeting on Aug. 2, 2011 to discuss placing a general enforcement policy into rule."

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' August 3, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' August 17, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' July 20, 2011 Agenda Meeting Webcast

TexasAdmin.com

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

Editorial: It's a Big Week for Texas Air Quality

Fort Worth Star-Telegram, July 26, 2011

"This is a week for Texas, particularly Dallas-Fort Worth, to be on pins and needles on the subject of air quality."

Shale Oil Boom Sends Waste Gas Burn-Off Soaring

Reuters.com, July 25, 2011

"HOUSTON - Flaring of natural gas from wells is on the upswing in Texas and North Dakota as oil and gas producers rush to develop new shale plays, and critics are not happy about it."

Editorial: Fort Worth Air Study Misses the Mark on Gas Industry Compressors

Fort Worth Star-Telegram, July 20, 2011

"The three natural gas company representatives on Fort Worth's Air Quality Study Committee are angry about the \$1 million-plus consultant's report that has resulted from the committee's work more than a year ago."

MIT Study Finds Coal-Fired Power Plant Would Add to Houston's Smog

Houston Chronicle, July 19, 2011

"A proposed coal-fired power plant in Matagorda County, about 90 miles from the traffic-choked freeways and smokestacks of Houston, would exacerbate the city's stubborn smog problem, a new study finds."

Gas Drilling in Fort Worth Dominates Council Discussion

Fort Worth Star-Telegram, July 19, 2011

"FORT WORTH - Urban drilling dominated discussions Tuesday as City Council members got their first formal presentation on a natural gas air-quality study and talked about letting the city's moratorium on saltwater disposal wells expire."

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Enforcement

TCEQ Approves Fines Totaling \$1,115,124

TCEQ Web Site, July 20, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$1,115,124 against 105 regulated entities for violations of state environmental regulations."

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Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, July 29, 2011

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Water

Appeals Panel: Suit Against LCRA May Proceed

Austin American-Statesman, July 29, 2011

" A lawsuit stemming from the breakdown two years ago of a multibillion-dollar Central Texas water-sharing contract that was dismissed by a trial court last year can proceed after all, a three-judge panel of the Texas 3rd Court of Appeals ruled Friday."

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EPA REGION 6

Tenaris Global Services, (USA) Corp. to Pay \$717,324 for Environmental Reporting Violations

Region 6 Web Site, July 18, 2011

"DALLAS – Tenaris Global Services, (USA) Corp., a manufacturer and supplier of steel pipe products for the oil and energy industry, has agreed to pay \$717,324 of civil penalties to the United States to settle violations of environmental regulations at seven facilities related to the public reporting of toxic chemicals at its facilities in Louisiana, Texas and Arkansas."

Denbury Onshore, LLC, Fined for Violating the Clean Water Act

Region 6 Web Site, July 18, 2011

"DALLAS – The Environmental Protection Agency (EPA) has fined Denbury Onshore, LLC, of Alvin, Texas, \$13,905 for violating the federal Clean Water Act."

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EPA

Proposed Rule, Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur

76 Federal Register 46084, August 1, 2011

Proposed Reissuance of a General NPDES Permit for Facilities Related to Oil and Gas Extraction 

76 Federal Register 45792, August 1, 2011

EPA Again Delays Stricter Smog Rules

Houston Chronicle, July 29, 2011

" Industry and business groups are making a last-minute push to persuade the Obama administration to drop proposed limits for ozone, a lung-irritating pollutant that has fouled Houston's air for decades."

EPA Targets Gas Drilling's Pollution of the Air

Houston Chronicle, July 28, 2011

" WASHINGTON - Faced with a natural gas drilling boom that has sullied the air in some parts of the country, the Environmental Protection Agency on Thursday proposed for the first time to control air pollution at oil and gas wells, particularly those drilled using a method called hydraulic fracturing."

EPA Proposes Air Pollution Standards for Oil and Gas Production

EPA Web Site, July 28, 2011


" WASHINGTON - The U.S. Environmental Protection Agency (EPA) today proposed standards to reduce harmful air pollution from oil and gas drilling operations."

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 44271, July 25, 2011

Proposed Rule; Definition of Solid Waste 

76 Federal Register 44094, July 22, 2011

Proposed Rule; Reopening Public Comment Period; National Pollutant Discharge Elimination System - Cooling Water Intake Structures at Existing Facilities and Phase I Facilities 

76 Federal Register 43230, July 20, 2011

Final Rule; Deferral for CO2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs 

76 Federal Register 43490, July 20, 2011

Texas Grid Operator Fears Electricity Shortage Under New EPA Rule

Austin American-Statesman, July 19, 2011

"Texas could face a shortage of electrical generation within a few years if the federal government moves forward with a new rule meant to cut down on power plant smokestack emissions, the chief executive of the state's grid operator warned on Tuesday."

Proposed Rule; Proposed Withdrawal of Prior Proposed Disapproval; Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); General Definitions; Definition of Modification of Existing Facility 

76 Federal Register 42078, July 18, 2011

Final Rule; Partial Withdrawal; National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries 

76 Federal Register 42052, July 18, 2011

Data Availability Concerning Transport Rule Allowance Allocations to Existing Units 

76 Federal Register 42055, July 18, 2011

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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

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

76 Federal Register 44985, July 27, 2011

Hazardous Materials Transportation: Revisions of Special Permits Procedures; Response to Appeals; Corrections 

76 Federal Register 44496, July 21, 2011

Final Rule; Correction; Pipeline Safety: Applying Safety Regulations to All Rural Onshore Hazardous Liquid Low-Stress Lines 

76 Federal Register 43604, July 21, 2011

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TEXAS RAILROAD COMMISSION

Texas Railroad Commissioner David Porter Announces Members of Eagle Ford Task Force

Railroad Commission Web Site, July 27, 2011

Eagle Ford Advisers Ready to Tackle Goals

Houston Chronicle, July 27, 2011

" SAN ANTONIO - Railroad Commissioner David Porter warned members of his brand-new Eagle Ford Task Force on Wednesday that they're taking on a tough job."

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OTHER TEXAS ENVIRONMENTAL NEWS

Perry Environmental Stance Would Transform EPA

Austin American-Statesman, July 23, 2011

"As governor of Texas, Rick Perry has argued that the U.S. Environmental Protection Agency has strangled business and interfered with state environmental efforts, and he has championed a half-dozen lawsuits challenging federal air pollution and greenhouse gas regulations."

Council Approves New Gas Ordinances

Flower Mound Leader, July 19, 2011

" FLOWER MOUND - The Flower Mound Town Council on Monday approved an amended natural gas drilling ordinance and an amended pipeline ordinance, both of which were the result of more than a year's worth of work by the town staff and the Oil and Gas Advisory Board."

Oil, Gas Industry Leaders Talk Technology, Future in the Eagle Ford Shale

The Gonzales Inquirer, July 19, 2011

" CORPUS CHRISTI - Texas Railroad Commissioner David Porter said the Eagle Ford Shale could provide 'the single most economic development in our state's history,' last week."

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REPORTS

Thirsty for Answers: Preparing for the Water-Related Impacts of Climate Change in American Cities

Natural Resources Defense Council Web Site, August 2011

"Communities across the United States - regardless of region - face significant water-related vulnerabilities because of climate change."

Summary and Critique of the Benefits Estimates in the RIA for the Ozone NAAQS Reconsideration

National Economic Research Associates Web Site, July 22, 2011

" EPA's statements on health benefits from lowering the Ozone NAAQS grossly misrepresent what EPA is actually estimating as the potential benefits of reducing public exposures to ozone."

Governor's Marcellus Shale Advisory Commission Report 

Marcellus Shale Advisory Commission Web Page, July 22, 2011

"The review included examining and recommending efforts to mitigate environmental impacts; fostering efforts to promote market development; developing a trained workforce; enhancing emergency response; identifying and mitigating uncompensated local and community impacts; providing for appropriate public health monitoring and analysis; and the responsible and efficient deployment of infrastructure."

The Effects of Renewable or Clean Electricity Standards 

Congressional Budget Office Web site, July 2011

"In recent years, federal policymakers have proposed various ways to alter the mix of energy sources used to generate electricity in the United States."

How Power Plants Contaminate Our Air and States 

Natural Resources Defense Council Web Site, July 2011

"This report analyzes publicly available data from Environmental Protection Agency's Toxics Release Inventory (TRI)."

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