

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

2011 South Texas Passive Infrared Aerial Survey

TCEQ Web Site, August 2, 2011

"Beginning Aug. 3, 2011, residents in South Texas may notice a white helicopter (Tail Number: N141LS) hovering over or near pipelines, oil and gas production facilities, and other industrial facilities."

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' August 17, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' August 31, 2011 Meeting Agenda

TCEQ Web Site

Commissioners' August 3, 2011 Agenda Meeting Webcast

TexasAdmin.com

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

Councilman Calls for Fort Worth to Take Action on Gas Drilling and Air Quality

Fort Worth Star-Telegram, August 16, 2011

"FORT WORTH - A month after the city received a long-awaited natural gas air-quality study, one council member said Monday that Fort Worth should move forward with requiring the so-called 'best practices' for the industry within the city limits."

Ozone Standard May Not Be Met

San Antonio Express-News, August 8, 2011

"Expecting more stringent standards from the Environmental Protection Agency, a regional committee whose task is to help San Antonio meet federal air quality standards will soon be grappling with a massive cut to its budget - a combination of events that could push the city out of air quality compliance."

Barnett Shale Air Monitor Goes Online in Everman Area

Fort Worth Star-Telegram, August 5, 2011

"The seventh air monitor in North Texas' Barnett Shale went on line this week in the Everman area in south Tarrant County to provide 'information about local air quality 24 hours a day, 365 days a year,' the Texas Commission on Environmental Quality said."

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Enforcement

TCEQ Approves Fines Totaling \$710,703

TCEQ Web Site, August 3, 2011

"The Texas Commission on Environmental Quality today approved penalties totaling \$710,703 against 83 regulated entities for violations of state environmental regulations."

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Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, August 12, 2011

Waste

Report of PCBs at Asarco Disputed

El Paso Times, August 13, 2011

"An industrial chemical banned in 1979 for its harmful health effects was detected in a small pool of water at Asarco, but experts disagree about its significance."

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Water

Water Rights Plan Divides Texas, New One in the Works

YNN, August 11, 2011

"Water is a matter of survival in Texas, so by law, every drop of surface water is owned by the state on behalf of the citizens."

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BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT

Information Collection Activity: Production Safety Systems, Revision of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

76 Federal Register 50748, August 16, 2011

BOEMRE Information Collection Activity: 1010-0141, Oil and Gas Drilling Operations, Extension of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

76 Federal Register 50240, August 12, 2011

Notice of Availability (NOA) of a Final Supplemental Environmental Impact Statement (EIS) Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Western Planning Area (WPA), Oil and Gas Lease Sale for the 2007-2012 5-Year OCS Program

76 Federal Register 50245, August 12, 2011

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EPA REGION 6

Texas Petroleum Company Fined for Violating the Clean Water Act

EPA Region 6 Web Site, August 11, 2011

"DALLAS - The Environmental Protection Agency (EPA) has fined the Texas Petroleum Company of Houston, Texas, \$163,487 for violating federal Spill Prevention Control and Countermeasure (SPCC) regulations outlined under the Clean Water Act."

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EPA

Final Rule, TSCA Inventory Update Reporting Modifications; Chemical Data Reporting

76 Federal Register 50816, August 16, 2011

EPA Affirms National Air Quality Standards for Carbon Monoxide Are Protective of Public Health

EPA Web Site, August 15, 2011

"WASHINGTON - After a careful review of the science, the U.S. Environmental Protection Agency (EPA) is affirming the current national air quality standards for carbon monoxide (CO)."

Direct Final Rule, Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing; Corrections

76 Federal Register 50129, August 12, 2011

EPA Set to Miss Deadline on Ozone Rules

Los Angeles Times, August 9, 2011

"The Obama administration, facing withering criticism from industry that environmental rules are behind the stalled economy, appears poised to miss another key deadline for new standards to clean up smog, lobbyists and environmentalists contend."

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

76 Federal Register 48073, August 8, 2011

Proposed Rule, Hazardous Chemical Reporting: Revisions to the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II)

76 Federal Register 48093, August 8, 2011

Final Rule, Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals

76 Federal Register 48208, August 8, 2011

Public Hearing for Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur

76 Federal Register 48073, August 8, 2011

Proposed Rule, Mandatory Reporting of Greenhouse Gases

76 Federal Register 47392, August 4, 2011

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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Lawmakers Consider Tougher Pipeline Rules Following Recent Accidents

MyWestTexas.com, August 14, 2011

"Republican and Democratic lawmakers are considering plans that could spur major upgrades to the nation's aging energy pipelines, driven by a string of recent oil spills, deadly natural gas blasts and what they call federal regulators' inaction."

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TEXAS RAILROAD COMMISSION

Editorial: World's Watching

Houston Chronicle, August 2, 2011

"The excitement across Texas about possibilities for new natural gas and oil plays is palpable, particularly across South Texas, site of the rich Eagle Ford Shale formation."

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OTHER TEXAS ENVIRONMENTAL NEWS

Chemical Innovation Enters a Fluid Debate

Houston Chronicle, August 13, 2011

"Flotek Industries has a solution to the debate that surrounds hydraulic fracturing: turn the oil fields into orange groves."

Conservation Finds a Home on Giant Ranches

San Antonio Express-News, August 13, 2011

"RAYMONDVILLE - The majestic aplomado falcon hadn't flown in South Texas for years when representatives of the Peregrine Fund arrived at Frank Yturria's bank office with a request."

Groups Consider Care and Cost of Rural Dams

Country World, August 8, 2011

"It's been said that Texas is in a perpetual drought, broken only by the occasional flood."

Experts Refute Alleged 23 Whooping Crane Deaths, According to GBRA

PR Newswire, August 3, 2011

"HOUSTON - Expert witness reports filed this week in U.S. District Court in Corpus Christi cast significant doubt on allegations made by The Aransas Project (TAP) in a lawsuit that 23 whooping cranes died during the 2008-09 drought, and countered that in fact, the flock is thriving."

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REPORTS

The SEAB Shale Gas Production Subcommittee Ninety-Day Report

Secretary of Energy Advisory Board Natural Gas Subcommittee Web Site, August 11, 2011

"This 90-day report presents recommendations that if implemented will reduce the environmental impacts from shale gas production."

Peer Review of EPA's Draft National-Scale Mercury Risk Assessment (August 5, 2011 Quality Review Draft)



EPA Science Advisory Board Web Page, August 5, 2011

"EPA's Office of Air and Radiation requested that the Science Advisory Board (SAB) review a draft Technical Support Document: National-Scale Mercury Risk Assessment Supporting the Appropriate and Necessary Finding for Coal and Oil-Fired Electric Generating Units - March 2011."

Cracks in the Facade

Environmental Working Group Web Site, August 2011

"EWG's investigation also turned up recent industry and government reports that sharpen concerns about fracturing and may help explain the West Virginia case featured in the EPA's report."

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