

Texas Environmental Update

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

July 14, 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 20, 2011 Meeting Agenda](#) 
TCEQ Web Site

[Commissioners' July 5, 2011 Work Session Webcast](#)
TexasAdmin.com

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Air

[Hearing on DFW Air Quality Set for Thursday](#)

Fort Worth Star-Telegram, July 13, 2011

"ARLINGTON - The Texas Commission on Environmental Quality will gather public input Thursday on proposed changes designed to help the Dallas-Fort Worth region meet current federal ozone standards."

[Fort Worth Councilman Frustrated by Delay in Releasing Air Quality Study](#)

Fort Worth Star-Telegram, July 13, 2011

"FORT WORTH -- One councilman expressed frustration Wednesday that the twice-delayed Fort Worth air quality study will be withheld from the public one more day before it is finally released today."

Permitting

[136 Texas Plants to Get New Permits](#)

Houston Chronicle, July 12, 2011

"The unique way Texas regulates air pollution from refineries, chemical plants and other major industries is no more - for now."

Regulatory Developments

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

TCEQ Web Site, July 11 2011

Waste

State Agency Tests Yards of Dona Park Homes, 5 Found With Chemicals of Concern

Corpus Christi Caller-Times, July 13, 2011

"CORPUS CHRISTI - Elevated levels of toxic chemicals were found at five of more than 350 homes in the Dona Park neighborhood where soil testing was done by the Texas Commission on Environmental Quality."

Water

Despite Opposition, West Texas Town to Sell Water to Coal Power Plant Builder

Fort Worth Star-Telegram, July 12, 2011

"HOUSTON - A West Texas town agreed Tuesday to sell much-needed water to a company that wants to build a coal-fired power plant, even though environmental groups argue that the arid area can't spare the resource."

TCEQ Restricts Junior Water Rights

TCEQ Web Site, July 5, 2011

"Drought conditions continue to be widespread across the state. As a result, the Texas Commission on Environmental Quality is informing water-rights holders in the Llano River Basin that water rights will be administered on a priority basis."

Drought Spurring Fracking Concerns

San Antonio Express-News, July 3, 2011

"As the drought strains water supplies in historically parched South Texas, the oil and gas boom stepping up in the Eagle Ford region has added a new level of uncertainty."

BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT

Misbehaving Drillers May Undergo New Scrutiny

Houston Chronicle, July 13, 2011

"WASHINGTON - The nation's top offshore drilling regulator said Wednesday he is examining whether the government can do more to keep oil and gas companies with checkered histories from exploring offshore."

EPA

Opinion: Is EPA Protecting Air or Just Killing Texas Jobs?

Corpus Christi Caller-Times, July 14, 2011

"CORPUS CHRISTI - On July 7, the EPA released the Cross-State Air Pollution Rule (CSAPR)."

Editorial: Blowing Smoke

Houston Chronicle, July 13, 2011

"Last week, the Environmental Protection Agency issued a new ruling that requires 27 states, including Texas, to address pollution from dirty power plants that fouls the air in other states."

Luminant May Shut Power Plants Over Clean-Air Regs

Beaumont Enterprise, July 13, 2011

"DALLAS (AP) - The major electric power provider for much of North and West Texas is considering how to respond to new federal clean-air regulations, including closing or reducing operations at some of its coal-fired plants and coal mines, according to a regulatory filing Wednesday."

EPA Opens Public Comment on Secondary Air Standards for Nitrogen and Sulfur Oxides

EPA Web Site, July 13, 2011

"WASHINGTON – After a careful review of the best available science, the U.S. Environmental Protection Agency (EPA) is proposing secondary air quality standards to protect the environment from nitrogen oxides (NOx) and sulfur oxides (SOx)."

EPA Strengthens Key Scientific Database to Protect Public Health

EPA Web Site, July 12, 2011

"WASHINGTON – The U.S. Environmental Protection Agency today announced plans to improve its Integrated Risk Information System (IRIS) program as part of an ongoing effort initiated in 2009 to strengthen the program."

EPA Air Rule Will Affect Texas Plants

Houston Chronicle, July 7, 2011

"A new federal rule will force coal-fired power plants in Texas to clamp down on pollution that fouls the air of other states."

EPA Responses to State and Tribal 2010 NO2 Designation Recommendations: Notice of Availability and Public Comment Period 

76 Federal Register 39798, July 7, 2011

EPA Reduces Smokestack Pollution, Protecting Americans' Health From Soot and Smog

EPA Web Site, July 7, 2011

"WASHINGTON – Building on the Obama Administration's strong record of protecting the public's health through common-sense clean air standards – including proposed standards to reduce emissions of mercury and other air toxics, as well as air quality standards for sulfur dioxide and nitrogen dioxide – the U.S. Environmental Protection Agency (EPA) today finalized additional Clean Air Act protections that will slash hundreds of thousands of tons of smokestack emissions that travel long distances through the air leading to soot and smog, threatening the health of hundreds of millions of Americans living downwind."

EPA Proposes Safeguards for Hazardous Waste Recycling

EPA Web Site, July 6, 2011

"WASHINGTON – The U.S. Environmental Protection Agency (EPA) is proposing new safeguards for recycling hazardous materials to protect public health and the environment."

Notice; Extension of Comment Period, EPA and Army Corps of Engineers Guidance Regarding Identification of Waters Protected by the Clean Water Act 

76 Federal Register 39101, July 5, 2011

Proposed National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial- Commercial-Institutional Steam Generating Units; Extension of Comment Period 

76 Federal Register 38590, July 1, 2011


Final Rule, Review of New Sources and Modifications in Indian Country 

76 Federal Register 38748, July 1, 2011

Notice of Extension of Public Comment Period, Draft Integrated Science Assessment for Lead 

76 Federal Register 38650, July 1, 2011

FISH AND WILDLIFE SERVICE

Notice of Intent; Announcement of Public Scoping Meetings; Request for Comments; Draft Environmental Impact Statement and Habitat Conservation Plan for Commercial Wind Energy Developments Within Nine States 

76 Federal Register 41510, July 14, 2011

Endangered Species List Candidates to Get Quicker Attention

Environment News Service, July 12, 2011

"WASHINGTON, DC - The U.S. Fish and Wildlife Service announced today that it will determine whether wolverines deserve full protection of the Endangered Species Act by 2013."

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

[General Policy Statement; Pipeline Safety; Enforcement Proceedings Involving an Informal Hearing](#)

76 Federal Register 40820, July 12, 2011

TEXAS RAILROAD COMMISSION

[Chairman Elizabeth Ames Jones: 'Notice to Operators-The Full Disclosure of Frac Fluid Chemicals Is Coming Very Soon.'](#)

Railroad Commission Web Site, July 11, 2011

"Austin, Texas - Elizabeth Ames Jones, Chairman of the Texas Railroad Commission (RRC), the energy regulatory agency for the U.S.'s largest oil and natural gas producing state, hopes to finalize a rule-making before the end of the year to disclose components of the solutions used in the hydraulic fracturing process now so common in drilling natural gas and oil wells."

[PUC Chief Steps Down for Post on Railroad Commission](#)

Fort Worth Star-Telegram, July 8, 2011

"Barry Smitherman, chairman of the Texas Public Utility Commission and a champion of electric deregulation, vacated his post Friday to accept an appointment from Gov. Rick Perry to the Texas Railroad Commission."

[Transfer of the Texas Commission on Environmental Quality's \(TCEQ's\) Surface Casing Program to Railroad Commission of Texas \(RRC\)](#)

Railroad Commission Web Site, July 1, 2011

"Article 2 of House Bill 2694, passed by the 82nd Texas Legislature and signed by the Governor, transferred from the TCEQ to the RRC duties relating to the protection of groundwater resources from oil and gas associated activities."

OTHER TEXAS ENVIRONMENTAL NEWS

[Republicans Cite Jobs in Attacking Federal Environmental Regulations](#)

Fort Worth Star-Telegram, July 14, 2011

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

[Flower Mound Scientist Often Plays Key Role in Drilling Controversies](#)

Fort Worth Star-Telegram, July 9, 2011

"When controversies have arisen over natural gas drilling and its impact on air and water quality in North Texas, Alisa Rich has often been a key player."

REPORTS

[Peer Review of EPA's Draft National-Scale Mercury Risk Assessment \(07/12/11 Draft\)](#)

EPA Science Advisory Board Web Page, July 12, 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."

[Review of EPA's Draft Oil Spill Research Strategy \(7/11/2011 Quality Review Draft\)](#)

EPA Science Advisory Board Web Page, July 11, 2011

"EPA's Office of Research and Development requested the Science Advisory Board (SAB) to review and provide

advice on the proposed research initiatives, as described in the EPA Draft Oil Spill Research Strategy, referred to hereafter as the 'Strategy.'"