

TEXAS ENVIRONMENTAL UPDATE



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San Antonio Area Designated in Attainment of Eight-Hour Ozone Standard

On April 2, 2008, EPA published a final rule designating thirteen Early Action Compact ("EAC") Areas, including the San Antonio EAC Area, in attainment of the eight-hour ozone standard.

TCEQ to Reject Data from Unaccredited Labs Beginning July 1, 2008

Analytical data submitted to the TCEQ in permitting and enforcement matters after June 30, 2008 must be generated by a lab that is accredited by the TCEQ's Texas Laboratory Accreditation Program under the National Environmental Laboratory Accreditation Conference (NELAC) standards.

TCEQ Houston Area Eight-Hour Ozone SIP Meetings

On March 25 and 26, 2008, TCEQ held Houston-Galveston-Brazoria ("HGB") eight-hour ozone state implementation plan ("SIP") stakeholder meetings in Houston. At the meetings, TCEQ provided an overview of the SIP timeline, which provides for control strategy development to be completed by March 2009, the development of control strategy rule proposals by August 2009, and proposal of such rules to the TCEQ commissioners by October 2009.

TCEQ Revises Title V Deviation Reporting Forms

TCEQ is in the final stages of revising its Title V permit compliance certification and deviation reporting forms and hopes to have them completed by the end of April. Most of the changes are intended to fix typographical errors in the current forms and to streamline the "look" of the forms to be more consistent with other permit forms.

EPA and Army Corps Issue Final Rule on Wetlands/Stream Mitigation

On April 10, 2008, EPA and the U.S. Army Corps of Engineers announced a final joint rule governing compensatory mitigation of impacts to wetlands, streams, and other aquatic resources authorized under the Clean Water Act permitting program.

The Ninth Circuit Denies En Banc Review of *Burlington Northern*, Creating an Intra and Inter-Circuit Split Re: CERCLA "Arranger" Liability

On March 25, 2008, the Ninth Circuit, for the second time, amended its opinion in *United States v. Burlington Northern & Santa Fe Railway*, but denied petitions for rehearing *en banc* regarding a panel decision which both expanded arranger liability for hazardous product manufacturers and limited the ability of PRPs to apportion liability under the Comprehensive Environmental Response, Compensation, and Liability Act.

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[Mandatory Carbon Reporting Approaches As The Climate Registry Releases Reporting Protocol For GHG Emissions Tracking](#)
[Beveridge & Diamond, P.C., April 3, 2008](#)

The Climate Registry (“TCR”), a prototype national carbon registry with 39 U.S. member states, released the final version of its General Reporting Protocol (“Protocol”) on March 31. The Protocol provides guidance to reporting entities on how to calculate and report greenhouse gas emissions, and is being developed in advance of mandatory greenhouse gas reporting rules currently under development by the U.S. Environmental Protection Agency.

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