

TEXAS ENVIRONMENTAL UPDATE



JUNE, 2008

Texas Office

98 San Jacinto Boulevard
Suite 1420
Austin, TX 78701
(512) 391-8000

Authors

Maddie Kadas

mkadas@bdlaw.com

Peter Gregg

pgregg@bdlaw.com

Lydia G. Gromatzky

lgromatzky@bdlaw.com

Laura LaValle

llavalle@bdlaw.com

Texas Developments

TCEQ Letters to EPA Document Flexible Air Permitting Program

The multi-year dialogue between the Texas Commission on Environmental Quality ("TCEQ") and the U.S. Environmental Protection Agency ("EPA") regarding the Texas flexible air permitting program continued with TCEQ's recent issuance of four letters addressing specific aspects of that program about which EPA has expressed concern.

Houston Preparing New Benzene Action Plan

The City of Houston is poised to step up its efforts to curb benzene levels in and around Houston. On May 27, 2008, the City announced a new plan to force local refineries and chemical plants to reduce their levels of benzene emissions. The plan follows the City's earlier attempts to obtain voluntary reductions in benzene emissions over five years at individual facilities. No facilities opted into that plan.

TCEQ Executive Management Team Announcements

TCEQ's new Executive Director, Mark Vickery, has announced the appointment of two new members to his executive management team. Carlos Rubinstein has been appointed to serve as Deputy Executive Director, the chief operating officer assisting the Executive Director in the administration of the agency. Zak Covar was appointed Assistant Deputy Executive Director to provide assistance with the daily administration of the agency.

Upcoming TCEQ Workshops

The TCEQ will conduct workshops on three significant topics in July and August:

- Sanitary Sewer Overflow Initiative (July 10, 17, 29 and 31)
- Dam Safety (July 23 and August 15)
- Public Drinking Water (August 19-20)

Recent Texas Rules Updates

Click on the above link for highlights of significant proposed and adopted Texas rule changes.

National Developments

EPA Issues Final Refinery NSPS

EPA issued final amendments to its New Source Performance Standards (NSPS) for Petroleum Refineries, at 40 C.F.R. Part 60, Subpart J/Ja. [73 Fed. Reg. 35838](#) (June 24,

For more information about our firm, please visit www.bdlaw.com

If you do not wish to receive future Texas Environmental Updates, please send an e-mail to: jmilitano@bdlaw.com

Office Locations:

Washington, DC

Maryland

New York

Massachusetts

New Jersey

Texas

California

2008). The amendments were proposed last year as the outcome of the periodic review of NSPS standards required under CAA Section 111(b)(1). 72 Fed. Reg. 27278 (May 14, 2007).

EPA Issues Final Rule Excluding Water Transfers from NPDES Permitting

On June 9, 2008, the Environmental Protection Agency finalized a long-awaited rule establishing that water transfers do not require a National Pollution Discharge Elimination System permit under the Clean Water Act because they do not result in the addition of a pollutant.

D.C. Circuit Upholds EPA's Residual Risk Standard for the HON

On June 6, 2008, the D.C. Circuit Court of Appeals upheld EPA's decision not to impose more stringent requirements under the Hazardous Organic NESHAP ("HON"), finding that EPA reasonably interpreted its obligations to issue residual risk standards and revised MACT standards under Section 112(f) and 112(d)(6) of the Clean Air Act. *NRDC v. EPA*, No. 07-1053 (June 6, 2008).

Firm News & Events

- ◆ [B&D Austin Office Hosts Reception in Conjunction with the Texas Environmental Superconference](#)
- ◆ [Benjamin Wilson, B&D Managing Principal, Elected to Board of Governors of the DC Bar](#)

Previous Issues of the Texas Environmental Update