

Texas Office

98 San Jacinto Boulevard
Suite 1420
Austin, TX 78701-4039
(512) 391-8000

Peter Gregg

pgregg@bdlaw.com

Lydia G. Gromatzky

lgromatzky@bdlaw.com

Maddie Kadas

mkadas@bdlaw.com

Laura LaValle

llavalle@bdlaw.com

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.

**Environmental Defense and Sierra Club file "Citizen
Petition" challenging PSD Program**

On January 17, 2008, Environmental Defense and the Sierra Club filed a "Citizen Petition for Action Pursuant to the Clean Air Act Regarding the Construction of New Sources in Texas" challenging the State of Texas' Prevention of Significant Deterioration permitting program. The petitioners allege the TCEQ's PSD program violates the State's State Implementation Plan and the Clean Air Act.

TCEQ Commissioners Approve ASARCO Permit Renewal

On February 13, 2008, the three commissioners of the TCEQ voted unanimously in favor of renewing the New Source Review air permit that authorizes emissions from ASARCO, Inc.'s copper smelter in El Paso, Texas.

**New TCEQ Rules for Pollution Control Property Tax
Exemptions Go Into Effect**

On February 7, 2008, TCEQ's new rules for obtaining tax relief for pollution control equipment went into effect. The rules were proposed last October to implement amendments to the Tax Code enacted by the Texas Legislature under H.B. 3732.

TCEQ Guidance on "Multiple SIC Code" MSS Permitting

A TCEQ internal memorandum dated January 14, 2008 addresses when New Source Review air permit applications to authorize planned maintenance, startup, and shutdown ("MSS") emissions must be submitted for facilities with different Standard Industrial Classification ("SIC") codes that operate on a single site.

**D.C. Circuit Vacates Two Rules Regulating Mercury Emis-
sions from Power Plants**

On February 8, 2008, the U.S. Court of Appeals for the District of Columbia Circuit vacated two EPA rules that regulate emissions of hazardous air pollutants ("HAPs") from electric steam generating units ("EGUs"). *New Jersey v. Environmental Protection Agency*, No. 05-1097 (D.C. Cir. 2008).

Mandatory U.S. Carbon Reporting Announced

The U.S. Environmental Protection Agency recently announced that it will proceed with rulemaking requiring companies to report their "carbon footprint" from carbon dioxide and other greenhouse gas emissions from U.S. facilities.

Renewable Fuel Standard Program Update

Renewable fuel producers, blenders and purchasers will want to take note of significant changes to the federal Renewable Fuel Standard ("RFS") program introduced by the Energy Independence and Security Act of 2007 ("EISA") passed by Congress in December 2007.

[FCC Ordered to Implement More Stringent NEPA and ESA Review in Communications Towers Approval Procedures](#)

On February 19, the D.C. Circuit Court of Appeals vacated and re-manded portions of an FCC ruling on a petition filed by environmental groups who argued that the FCC's procedures for approving new communications towers failed to properly implement the National Environmental Policy Act ("NEPA") and the Endangered Species Act ("ESA") in regards to new towers' effects on birds.

[Recent Texas Rules Updates](#)

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

[Previous Issues of the Texas Environmental Update](#)

[Washington, D.C.](#) [Maryland](#) [New York](#) [New Jersey](#) [Massachusetts](#) [Texas](#) [California](#)

Copyright 2008
Beveridge & Diamond, P.C.
All rights reserved.

The purpose of this update is to provide you current information on Texas environmental regulatory developments. It is not intended as, nor is it a substitute for, legal advice. You should consult with legal counsel for advice specific to your circumstances. This communication may be considered advertising under applicable laws regarding electronic communications.