

TEXAS ENVIRONMENTAL UPDATE



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Texas Developments

Texas State Implementation Plan Activity

EPA issued a number of proposals during July 2008 relating to the Dallas-Fort Worth ("DFW") area. First, on July 11, EPA published a proposal to redesignate the DFW one-hour ozone nonattainment area to attainment status. If approved, the proposal also would suspend requirements to submit specified State Implementation Plans ("SIP") revisions for as long as the area continues to attain the ozone NAAQS.

Houston Requests VOC and HAP Emission Factor Corrections

On July 9, 2008, the City of Houston submitted a Data Quality Act ("DQA") request to EPA requesting the correction of emissions factors that are used to estimate emissions of volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"). In his letter, Houston Mayor Bill White asks EPA to address data quality errors in these emissions factors that "significantly undercount emissions from petroleum refineries and chemical manufacturing plants."

TCEQ Issues Guidance for Hurricane Dolly Response and Cleanup Actions

TCEQ has issued guidance for response and cleanup actions to address the impacts of Hurricane Dolly, which made landfall in South Padre Island as a Category 2 hurricane earlier this month.

Upcoming TCEQ Workshops

TCEQ will hold its annual Advanced Air Permitting Seminar on September 28-29, 2008. For more information, go to www.tceq.state.tx.us/assets/public/assistance/events/08-09airpermitting.pdf.

Recent Texas Rules Updates

See, TCEQ website at <http://www.tceq.state.tx.us/rules/whatsnew.html> for information on new rule developments.

National Developments

EPA Issues Advance Notice of Proposed Rulemaking on GHG Emissions: Asks for Further Public Comment

On July 11, EPA confirmed that the present Administration will not be regulating greenhouse gas emissions. Stating that the Clean Air Act is "ill-suited for the task of regulating global greenhouse gasses," and that any such regulation "would result in an unprecedented expansion of EPA authority and would have a profound effect on virtually every sector of the economy," EPA instead issued an Advance Notice of Proposed Rulemaking seeking public

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comment on the potential ramifications of using the Clean Air Act to regulate greenhouse gas emissions.

EPA Releases CO₂ Sequestration Draft Rules

On July 15th, EPA released its draft “Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO₂) Geologic Sequestration (GS) Wells.” The rules, proposed under the Safe Drinking Water Act, address the long-term underground storage, or geologic sequestration, of CO₂.

D.C. Circuit Vacates Fundamentally Flawed Clean Air Interstate Rule

On July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA’s Clean Air Interstate Rule (CAIR). *North Carolina v. Environmental Protection Agency*, No. 05-1244 (D.C. Cir. 2008). Based on “fatal flaws” in the rule, the Court vacated CAIR (and EPA’s Federal Implementation Plan) in its entirety and remanded it to EPA. *Id.* at 4.

Minerals Management Service Issues Proposed Regulations for Alternative Energy Development on the Outer Continental Shelf

On July 9, 2008, the Minerals Management Service (“MMS”) issued its long-awaited proposed regulations for development of alternative energy on the Outer Continental Shelf (“OCS”) (73 Fed. Reg. 39376). In the Energy Policy Act of 2005, Congress authorized MMS to issue leases, easements, and rights-of-way for production of energy from sources other than oil and gas, including wind, wave, current and tidal sources.

Firm News & Events

- [Reminder - B&D Austin Office Will Host Reception in Conjunction with the Texas Environmental Superconference](#)
- [Edward West Joins B&D’s Land Use Practice, Will Lead Real Estate Practice Group](#)
- [Four B&D Attorneys Recognized in Who’s Who of Business Lawyers](#)
- [PLC Environment Handbook Recommends Three B&D Attorneys](#)

Previous Issues of the Texas Environmental Update