

August 5, 2010

EPA/TCEQ Dispute Over Greenhouse Gas Emissions Heats Up

The public dispute between EPA and the Texas Commission on Environmental Quality (TCEQ) over air quality issues continues to intensify. The latest salvo is a strongly worded letter from the state of Texas to EPA on the issue of air quality permitting of greenhouse gases. Currently, EPA is poised to begin requiring consideration of greenhouse gas emissions in air quality permitting on January 2, 2011 and directed the states to advise EPA whether they would be able to administer the permitting of greenhouse gases by that date. A copy of that letter can be seen [here](#).

Texas's response was a six-page August 2, 2010 letter addressed to EPA Administrator Lisa Jackson and Region 6 Administrator Al Armendariz, and signed by TCEQ Chairman Bryan Shaw and Texas Attorney General Greg Abbott. The Texas position is encapsulated in one sentence from the letter:

"Texas has neither the authority nor the intention of interpreting, ignoring or amending its laws in order to compel the permitting of greenhouse gas emissions."

The Texas position, as stated in the letter, could mean that sources in Texas required under EPA rules to address greenhouse gas emissions in air quality permitting will have to negotiate those permitting issues with EPA. Of course, Congress is considering legislation that would affect EPA authority to require that greenhouse gases be addressed in air quality permits. Additionally, there will be litigation over EPA's existing authority to require permitting of greenhouse gases (some of the issues are discussed in the letter to EPA), so owners of facilities in the State of Texas should continue to monitor developments.

Please feel free to contact us if you have any questions regarding this matter.

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