

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners' Work Session

Date: March 25, 2011

From:  Jim Harrison, Director
Intergovernmental Relations Division

Subject: Legislative Update

Issue

Discussion of legislative issues potentially affecting the TCEQ; as well as other state actions and state's participation in legislative and regulatory activities.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Mark Vickery, Executive Director
Commissioners

Date: March 1, 2011

From:  Jim Harrison, Director, Intergovernmental Relations

Subject: Legislative Implementation Status Report

81st Legislative Session Implementation Status Report			
	Total Number to Complete	Total Number Completed	Total Number Remaining
Number of Bills to Implement	187	184	3
Number of Bills Requiring Rulemaking	18	17	1

Remaining bills to implement from the 81st Legislative Session:

SB 1 – Two riders are expected to be completed by August 31, 2011.

SB 745 – Expected to be completed by August 2011; awaiting completion of BAMS travel module.

SB 1387 – TCEQ Rulemaking is postponed until RRC adopts rules.

80th Legislative Session Implementation Status Report			
	Total Number to Complete	Total Number Completed	Total Number Remaining
Number of Bills to Implement	197	195	2
Number of Bills Requiring Rulemaking	38	36	2

NATIONAL COMMENTS LOG

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	9/13/10	Transportation Conformity Rule Restructuring Amendments	<p>TCEQ supports EPA's proposed restructuring of 40 CFR 93.109 and 93.119 and the clarification of the conformity test options for clean data areas. The proposal provides a more clear and concise organization of the sections. The new structure will allow implementing organizations to know the requirements for performing regional conformity tests for any new or revised NAAQS before designations are even made, rather than waiting for updated guidance and regulations to follow the designation process, as has been the case in the past.</p> <p>TCEQ supports the clarification of the general applicability of conformity requirements to secondary standards; however, the proposal is unclear as to the specific requirements for showing compliance with any secondary standard. Therefore, it is difficult to provide any meaningful comments at this time. The proposal does indicate that EPA will issue guidance as needed to assist areas in implementing conformity requirements for new standards, including secondary standards.</p>	CEO	Heather Evans
EPA	9/23/10	Proposed Rule to Implement the 1997 8-Hour Ozone NAAQS: New Source Review Anti-Backsliding Provisions for Former 1-Hour Ozone Standard	<p>The TCEQ generally supports the EPA's efforts to address removal of burdensome nonattainment new source review (NSR) permitting requirements for the one-hour ozone standard, but wishes to comment on a few specific points included in the EPA's proposed rule:</p> <ul style="list-style-type: none"> • A request for one-hour ozone nonattainment NSR provisions to be removed for 1997 eight-hour ozone attainment areas based on eight-hour ozone monitoring data should only require a request letter. • The EPA should not prevent any provision of a major NSR permit that was established during the time the one-hour ozone standard applied from being modified. • The EPA is not providing adequate public notice for its proposal to revise the Code of Federal Regulations (CFR) as it relates to section 181(b)(4) of the FCAA. • For a finding of attainment for the one-hour ozone standard, only applicable and appropriate monitoring data should be required to determine whether an area is eligible to remove one-hour nonattainment NSR requirements. 	CEO	Walker Williamson

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	10/1/10	Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone	<p>Comments on the Transport Rule proposal include:</p> <ul style="list-style-type: none"> • A reiteration of our original request for a 90-day comment period extension; • A critique of the EPA’s preferred option based on the potential limits to market activity, difficulty for compliance assessment, and potential impact on energy consumers; • A critique of the EPA’s technical analysis for the proposal, including its assessment of design values, modeling program flaws, cost-assessments for NOX controls, and the failure to consider certain existing controls; • An objection to EPA’s analysis regarding Texas’ potential inclusion in the PM2.5 program; • A request for information regarding SIP criteria for states seeking to replace the Transport Rule FIP; and, • An objection to our inclusion in the program altogether based on EPA’s significant technical flaws. 	CEO	Melissa Kuskie
EPA	10/4/10	Proposed Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call; Federal Implementation Plan (FIP)	<p>In little more than one year, EPA has determined that a pollutant that has never been regulated before under the FCAA should be done beginning January 2, 2011, without proper guidelines on what controls should apply and how states are to implement this program. EPA acknowledges that subjecting stationary sources of GHG to permit requirements according to the Act’s specific thresholds is “absurd” yet EPA is on a course to do just that. TCEQ is concerned that the proposed SIP Call and FIP are merely additional elements of a scheme that short-circuits the statutory process for regulating major stationary sources. Both the SIP Call and FIP are unlawful because the Tailoring Rule itself is unlawful. The Tailoring Rule is contrary to the express statutory commands of the FCAA.</p> <p>EPA proposes this SIP Call and FIP as the solution to a problem of its own making. As we stated in our comments to the Tailoring Rule, and repeat here, EPA actions magnify the inappropriateness of regulating GHG under the FCAA and are a further attempt to alter the literal application of the Act. The proposals by EPA are an attempt to write policy that should be contemplated by Congress. EPA’s actions exceed its administrative authority to execute the laws that Congress has written. The legally-flawed reliance on section 110(k)(5) as a basis for a SIP Call and lack of regulatory certainty on what constitutes BACT for GHG emissions, as well as the practical effect of no new major construction or modification under state-or EPA-issued GHG permits in the near future, compels TCEQ to urge the Administrator to withdraw these proposals.</p>	OLS	John Minter

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	11/18/10	Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Rules and Regulations for Control of Air Pollution; Permitting of Grandfathered and Electing Electric Generating Facilities	<p>Section 116.911(a)(2) was adopted to provide a means of authorizing collateral emissions increases for grandfathered EGF that were required to reduce and permit sulfur dioxide (SO₂), nitrogen oxide (NO_x), and particulate emissions (PM) under Senate Bill 7, 76th Legislature (1999). These SO₂, NO_x, and PM emission reductions from sources previously exempt from permitting improved air quality and supported the attainment of federal air quality standards. The collateral CO emission increases did not result in any increase in Prevention of Significant Deterioration increments or any violation of National Ambient Air Quality Standards.</p> <p>The EPA's proposed disapproval of § 116.911(a)(2) cites the DC Circuit Court of Appeals decision, <i>New York v. EPA</i>, 413 F.3d (D.C. Cir. 2005), which disallowed the use of PCP SPs for major new source review (NSR) requirements. The TCEQ acknowledges that the court's opinion left the EPA little choice in disapproving paragraph (2) of the rule. However, the TCEQ notes that at the time of adoption, this paragraph was in compliance with all applicable state rules and federal regulations and policies. Additionally, paragraph (2) applied only to initial applications of grandfathered EGFs, which were required to be submitted by September 1, 2000. This paragraph has no current application since this date has long passed and there will be no new initial applications from EGFs.</p> <p>The PCP SP was revised in 2006 to preclude the use of the PCP SP to authorize new major sources and major modifications, thus addressing the court's decision in <i>New York v. EPA</i>. The EPA has neither adopted any rules that provide detailed requirements for this type of permit, nor any rules prohibiting it. The applicable rule in 40 CFR § 51.160 is broadly written and has been interpreted by the EPA to provide states the discretion to tailor their own minor NSR permit programs. The commission's standard permit program is part of the approved Texas SIP and the EPA has determined it meets 40 CFR Part 51.</p> <p>The TCEQ has recently proposed a new non-rule PCP SP and has received comments from the EPA regarding that proposal. The executive director will present his response to those comments to the commission for consideration of a new non-rule PCP SP. In the interim the TCEQ maintains that § 116.617 is an efficient and legally supportable authorization for pollution control projects in Texas.</p>	OPR	Michael Wilhoit

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	11/19/10	Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities	TCEQ does not support regulating CCRs under Subtitle C of RCRA. Should EPA determine that federal regulation of CCRs is necessary and appropriate, TCEQ recommends that CCRs be regulated under Subtitle D of RCRA rather than Subtitle C, as regulation of CCRs under Subtitle C could negatively impact the beneficial use of CCRs.	OPR	Kari Bourland
EPA	11/24/10	Notice of Data Availability Supporting Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone: Revisions to Emission Inventories	<p>TCEQ comments on the EPA NODA for the Transport Rule proposal include:</p> <ul style="list-style-type: none"> • Objections to the EPA's proposed use of the revised data identified in NODA to make changes to the final Transport Rule because it is unreasonable and does not provide adequate notice to the public of the potential changes to the final Transport Rule; • A request that if the EPA continues to revise emissions inventory data and place additional information in the docket to support changes to the final rulemaking, it should make such data available for comment and reopen the complete rulemaking for comment to allow the public to evaluate the potential impact of the rule and provide meaningful public comment; • Objections to the EPA's unreasonably short comment period based on the large amount of data provided in the NODA and the fact that the data may or may not be used to expand the scope of the proposed Transport Rule, thereby resulting in potentially affected parties being provided inadequate notice of rulemaking; • A request that the EPA consider as creditable for the Transport Rule certain EPA-approved enforceable state control measures included in state implementation plan revisions in addition to the unenforceable ancillary nitrogen oxides reductions from federal measures it proposes to include in the NODA; • A request for the EPA to provide an explanation of the assumptions used to grow or control the emissions data that the TCEQ provided on oil and gas drilling rig emissions; and, • A request that the EPA identify specifically which latest public release of the Motor Vehicle Emissions Simulator (MOVES) it intends to use in estimating on-road emissions data and a request that the EPA ensure this latest version has been made available for public use. 	CEO	Melissa Kuskie

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	12/8/10	Guidelines for Establishing Test Procedures for the Analysis of Pollutants under the Clean Water Act	<p>In general, the TCEQ supports corrections to methods, the approval of the most recent version of methods published by Standard Methods, updates to technology, and a minimum set of quality control requirements. TCEQ generally supports an increased flexibility in the selection of methods. The four topics listed below convey our perspectives and concerns.</p> <p>Effective Date: Implementing the revisions to the analysis and sampling procedures thirty days after publication does not provide laboratories with sufficient time to modify standard operating procedures, run performance test samples, and conduct demonstrations of capability to maintain compliance with National Environmental Laboratory Accreditation Conference (NELAC) accreditations. Providing a year for implementation is consistent with the time provided under NELAC for updating procedures.</p> <p>Minimum Quality Control Requirements: The TCEQ supports the standardization of terminology. The use of multiple terms to describe method detection limit continues to cause confusion among the data users making decisions regarding health and environmental impacts.</p> <p>Additional Methods: The TCEQ supports the inclusion of additional methods, provided the methods yield comparable results. The TCEQ suggests that the ability of additional methods to yield comparable results be demonstrated through a mechanism similar to the side-by-side testing conducted for the hexane extracted oil and grease methods. TCEQ encourages this type of analysis for all parameters before they are added to the list of approved parameters.</p> <p>Sample Collection, Preservation and Holding Time: The TCEQ supports the revision of the footnote related to the holding time for <i>E. coli</i>.</p>	OW	Laurie Curra
EPA	12/20/10	Finding of Substantial Inadequacy of Implementation Plan; Call for Utah SIP Revision	<p>The EPA has determined that a Utah rule previously approved by the EPA is insufficient to protect the National Ambient Air Quality Standards (NAAQS), and therefore Utah must revise the rule and its state implementation plan (SIP) within 12 months or the EPA will issue a SIP call and begin a sanctions clock. As part of its proposal, the EPA has requested comments on using its discretionary authority to implement highway sanctions statewide, as opposed to only in Utah's nonattainment areas. TCEQ comments on the above referenced proposed rule include the following:</p> <ul style="list-style-type: none"> • The EPA should not impose statewide highway sanctions, especially when a SIP call is based on disapproval of a rule that the EPA had previously approved into a state's SIP. • Because the EPA proposes to impose sanctions statewide, EPA must adequately explain how the requirements of 40 CFR §52.30(b) have been satisfied, as is necessary for the EPA to be able to implement the proposed action to impose state highway sanctions. 	CEO	Margie McAllister

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	12/27/10	Draft Toxicological Review of Hexavalent Chromium	<p>The 90-day EPA comment period is inadequate for regulatory agencies and others to provide the most thorough and meaningful comments based on an in-depth review and analysis of the derivation of the draft SFO. The comment deadline should be extended at least 30 days past the current December 29 deadline to allow stakeholders to perform a more detailed review of the volumes of relevant information and to comment on problematic issues associated with the 300-page draft analysis.</p> <p>Along with the draft CrVI assessment, TCEQ is concerned that recent draft EPA assessments (e.g., dioxin, arsenic, formaldehyde) seem to demonstrate a pattern where the EPA timeline is sufficient for a less-than-desirable level of initial EPA analysis but insufficient for EPA to conduct the fully credible, balanced, and transparent assessment the public deserves.</p> <p>Regarding CrVI specifically, EPA should not finalize the draft CrVI SFO until they adequately address several significant scientific concerns. Regarding practical implications, for example, using the draft SFO value would result in significantly lower remediation soil cleanup concentrations within the range of chromium background. The drinking water MCL could be lowered significantly, potentially to a concentration below analytical detection limits and the ability of existing practical drinking water treatment technologies. EPA should postpone finalizing the draft assessment as the new data addressing important data gaps is imminent.</p>	CEO	Joseph "Kip" Haney
EPA	1/14/11	Guidance on Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites	<p>The TCEQ developed numerous comments from the perspective of its experience with ICs, and as a result of a careful review of the document. Comments are presented in 3 groups: general, specific sections, and editorial. In general, TCEQ has been successful with its rules and guidance for IC implementation and recommends EPA add state regulations as an authority for ICs. Other generalities in the document that might not work in Texas include: transfer of an interest in real property to TCEQ; program constraints (procedures or volumes of sites) preclude full utilization of the guidance; assurance for stewardship at CERCLA fund-lead sites without landowner consent for a restrictive covenant; and, delay by federal facilities to file ICs on federal land.</p>	OCE	Paul Lewis
EPA	2/7/11	Reasonable Further Progress (RFP) Requirements for the 1997 Eight-Hour Ozone NAAQS	<p>TCEQ comments on the RFP proposal include:</p> <ul style="list-style-type: none"> • A recommendation that the EPA conduct a rulemaking regarding specific requirements that states would have to meet to address the policy change; • A recommendation that the EPA clarify the RFP planning requirements to which this policy change applies; and, • An objection to the solicitation of comments regarding implementation requirements for a NAAQS that does not exist. 	CEO	Jamie Zech

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	2/7/11	EPA Disapproval and Promulgation of Air Quality Implementation Plans; Revisions to the Administrative Rules of Montana-Air Quality	<p>TCEQ comments on the Notice of Reconsideration include:</p> <ol style="list-style-type: none"> 1. The TCEQ disagrees with the EPA regarding its determination that sight, sound, and smell leak detection techniques are unenforceable based solely on a perceived lack of sophistication. These techniques should not be unilaterally disapproved by the EPA due to a perceived lack of technological sophistication. 2. If EPA is taking a position that sight, sound, and smell as leak detection techniques are not enforceable in any circumstance, then some of the EPA's own LDAR regulations would not be enforceable. 3. If the EPA has specific reasons why sight, sound, and smell are not appropriate for the purposes of the Montana LDAR rules, then the EPA should cite those specific reasons and not generalize about the sophistication level of sight, sound, and smell inspection techniques. 	CEO	Vincent Meiller
EPA	2/7/11	Notice of Data Availability Supporting Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone	<p>TCEQ comments on the NODA for the Transport Rule proposal include:</p> <ul style="list-style-type: none"> • Objections to the EPA's release of data and alternatives that may significantly change the original rulemaking with limited comment periods and without re-opening the entire rulemaking for comment. • Objections concerning the EPA's intent to subject existing units that may not be on the list of existing units to allowance-holding requirements regardless of whether such units are allocated allowances, and a request that EPA provide a mechanism for such units to receive allocations. • A critique of the two allocation methodology alternatives in the NODA: Option One does not consider technological feasibility of available pollution controls, and Option Two is not clearly explained in terms of the logic and rationale behind the allocation methodology and appears to favor uncontrolled sources in allowance allocation . • Objections concerning potential allocations for the annual trading program, to which Texas may become subject, because Texas has not been provided a proposed budget for the annual program and is effectively denied the opportunity to comment on allocation methodologies. • Comment noting that the TCEQ has already submitted SIP revision addressing 1997 eight-hour ozone transport obligations. • A critique of the EPA's unrealistic timeline regarding the SIP submittal deadline for states seeking to allocate allowances for the 2014 control period and a request for clarification of the submittal date discrepancy in the Federal Register publication. 	CEO	Melissa Kuskie

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	2/14/11	Reconsideration of the National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines	<p>The TCEQ supports the petitioners' request for reconsideration to revise the NESHAP regulatory limitation on the hours allowed for emergency demand response operation of emergency engines.</p> <p>Operation of emergency engines under an emergency demand response program should be limited by a definition of what is considered emergency response program operation rather than by a limit on the total hours an engine may operate under such programs. The rule should classify operation of an engine under emergency demand response programs as emergency operation provided the operation is in direct response to an energy emergency declared by the regional transmission or balancing authority and is required by the conditions of the emergency demand response program.</p> <p>The EPA should consider expanding the provisions regarding emergency demand response programs to existing emergency engines rated more than 500 brake horsepower at major sources of hazardous air pollutant that were installed prior to June 12, 2006.</p>	CEO	Vincent Meiller
EPA	2/14/11	Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval and Federal Implementation Plan regarding Texas Prevention of Significant Deterioration Program	<p>EPA is attempting to usurp permitting authority from Texas without following procedures of the Clean Air Act. EPA's action arbitrarily finds fault in Texas' PSD program, even though less than one month prior, EPA gave Texas 12-months to revise its SIP to 'correct' this perceived flaw. EPA's action totally eviscerates the SIP Call and the process that is due Texas to allow time to revise its SIP to avoid a FIP if it so chooses.</p> <p>Texas' PSD program meets all federal CAA requirements for an approvable program. Texas has always maintained adequate legal authority to implement the PSD program. The history of Texas' PSD SIP submittals shows that federal rules were incorporated by reference with specific dates that would require subsequent change by the state if federal rules or interpretations changed. In fact, EPA alluded to this in the Interim Final Rule. EPA has consistently approved SIP submittals based on this understanding. Furthermore, EPA acknowledges it has never asked Texas to provide assurances that its PSD program apply to pollutants subject to regulation in the future.</p> <p>Section 110(k)(6) has been used historically by EPA to correct previous actions that were deemed in error. As an alternative to §110(k)(6), EPA proposes to use what it calls "its inherent administrative authority to reconsider" its prior approval actions, as a basis for revising the prior approvals of the Texas PSD SIP under § 301(a). No such clear authority is found in this section. Texas does not agree that the language used in 40 CFR § 52.2303 satisfies EPA's partial disapproval action. It is quite obvious from EPA's failure to 'correct' its approval for over 18 years that this action and the FIP are about GHG regulation and not any other pollutants and is more clear by reference to the new definition of 'subject to regulation' added by the GHG Tailoring Rule only months ago.</p>	OLS	John Minter

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SUBM TO	DATE	SHORT TITLE	TCEQ COMMENTS	OFFICE PREPARING	OFFICE CONTACT
EPA	3/7/11	Finding of Substantial Inadequacy of Implementation Plan; Call for Kansas Section 110 SIP for Interstate Transport for the 1997 NAAQS for Ozone	<p>The TCEQ offers the following comments:</p> <ul style="list-style-type: none"> • The EPA’s proposed action is premature prior to a finalized Transport Rule. • The Kansas §110(a)(2)(D)(i)(I) SIP was based on the same August 15, 2006, EPA guidance that was relied upon for states included in the CAIR rulemaking. It is arbitrary and capricious for the EPA to issue a finding of “substantial inadequacy” for Kansas, yet revert back to the 2005 findings of “failure to submit” for CAIR states. The EPA is providing CAIR states with significantly less or no time to address a finding of inadequacy with their SIP submittals before initiating a Federal Implementation Plan (FIP). • Any need for additional emissions reductions between the remand of CAIR and the final Transport Rule should be addressed through the SIP process as envisioned by the FCAA. The delay between the remand of CAIR and the replacement Transport Rule resulted in the need for an expedited schedule, and thereby forces Kansas into a FIP. • The EPA is denying states the opportunity to address transport and §110(a)(2)(D)(i)(I) of the FCAA appropriately through the SIP process. 	CEO	Melissa Kuskie

Federal Notices and Regulatory Initiatives

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Air Programs

Subject	Activity Dates	Federal Register Information	TCEQ Activity & Status
National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines	April 8, 2011 (comments)	March 9, 2011 Proposed Rules	Staff recommend no comments.
Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; EPA's Light-Duty In-Use Vehicle and Engine Testing Program	March 25, 2011 (comments)	February 23, 2011 Notices	Staff recommend no comments.
National Ambient Air Quality Standards for Carbon Monoxide	April 12, 2011 (comments)	February 11, 2011 Proposed Rules	Staff recommend comments. Executive Review package being developed.
Agency Information Collection Activities; Proposed Collection; Comment Request; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects	April 11, 2011 (comments)	February 10, 2011 Notices	Staff recommend no comments.
PM2.5 National Ambient Air Quality Standard Implementation Rule	April 4, 2011 (comments)	February 2, 2011 Notices	Staff recommend no comments.
Regulation of Fuel and Fuel Additives: Alternative Test Method for Olefins in Gasoline	March 2, 2011 (comments)	January 31, 2011 Proposed Rules	Staff recommend no comments.
Agency Information Collection Activities; Proposed Collection; Comment Request; Air Stationary Source Compliance and Enforcement Information	March 21, 2011 (comments)	January 18, 2011 Notices	Staff recommend no comments.
Finding of Substantial Inadequacy of Implementation Plan; Call for Kansas Section 110 State Implementation Plan for Interstate Transport for the 1997 National Ambient Air Quality Standards for Ozone	March 7, 2011 (comments)	January 6, 2011 Proposed Rules	Comments submitted to EPA on 3/7/11.

Federal Notices and Regulatory Initiatives

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Other Programs

Subject	Activity Dates	Federal Register Information	TCEQ Activity & Status
Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Underground Storage Tanks: Technical and Financial Requirements and State Program Approval Procedures	April 4, 2011 (comments)	March 3, 2011 Notices	Staff recommend no comments.
Improving EPA Regulations	March 20, 2011 (comments)	February 23, 2011 Proposed Rules	Staff recommend no comments.
Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Nine Bexar County, Texas, Invertebrates; FISH AND WILDLIFE SERVICE	April 25, 2011 (comments)	February 22, 2011 Proposed Rules	Staff recommend no comments.
Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Request for Superfund Site Evaluation and Hazard Ranking System	April 11, 2011 (comments)	February 8, 2011 Notices	Staff recommend no comments.
Agency Information Collection Activities; Proposed Collection; Comment Request; Cross-Media Electronic Reporting Rule (Renewal)	April 4, 2011 (comments)	February 2, 2011 Notices	Staff recommend no comments.

Federal Notices and Regulatory Initiatives

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Waste Programs

Subject	Activity Dates	Federal Register Information	TCEQ Activity & Status
Texas: Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program	April 6, 2011 (comments)	March 7, 2011 Proposed Rules	Staff recommend no comments.
Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements Under EPA's WasteWise Program	April 25, 2011 (comments)	February 23, 2011 Notices	Staff recommend no comments.

Water Programs

Subject	Activity Dates	Federal Register Information	TCEQ Activity & Status
Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR 3) for Public Water Systems	May 2, 2011 (comments)	March 3, 2011 Proposed Rules	Staff recommend no comments.
Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Listing of Fish Advisories	March 24, 2011 (comments)	February 22, 2011 Notices	Staff recommend no comments.

Federal Notices and Regulatory Initiatives

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Final Rule Adoption

Subject	Activity Dates	Federal Register Information
National Priorities List, Final Rule No. 51 (West County Road 112 Ground Water... Midland, TX)	April 11, 2011	March 10, 2011 Rules and Regulations
Additional Air Quality Designations for the 2006 24-Hour Fine Particle National Ambient Air Quality Standards, 110(k)(6) Correction and Technical Correction Related to Prior Designation, and Decisions Related to the 1997 Air Quality Designations and Classifications for the Annual Fine Particles National Ambient Air Quality Standards	March 7, 2011	February 3, 2011 Rules and Regulations

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 88 (Cook)	Relating to the sale, recovery, and recycling of certain television equipment; providing administrative penalties	HB 1966 (Chisum) and SB 329 (Watson)	Creates a television equipment recycling program, sharing responsibility among consumers, retailers, manufacturers, and the government of this state for recycling covered television equipment.	See analysis.	Referred to HER on 2/9/11	JA	Cynthia Carter
HB 125 (Legler)	Relating to the inclusion of a draft impact analysis in the notice of rules proposed by the TCEQ.		Requires for all TCEQ rulemakings that the commission include in its fiscal notes a draft impact analysis that meets the requirements of Government Code § 2001.0225, which requires preparation of Regulatory Impact Analysis for major environmental rules.	The bill expressly requires the TCEQ to perform a “draft impact analysis,” for all rules. Because the TCEQ already complies with Gov’t Code § 2001.0225 and is subject to a full RIA for major environmental rules that do not meet any of the statutory exceptions, this analysis assumes that the author intends that the bill adds substantive requirements, specifically that the TCEQ will be required to prepare full final RIA, and a final regulatory decision for all rules, more fully discussed in response to #3 above. If the results of a full RIA are contrary to requirements needed to implement a federal program, then approval of that program could be jeopardized. If the author intends for any exception such as this to apply, then the bill would need to be amended to specify that. Existing Gov’t Code § 2001.0225 provides exceptions for rules adopted that do not exceed a standard set by federal law. It is also unclear whether the bill is intended to circumvent § 2001.0225(h) which provides that regulatory analyses are not required for emergency rules. If that uncertainty is not cleared up, it could be used as a ground for challenge for emergency rulemakings that do not comply.	Pending HER 3/9/11	MH	Janis Hudson

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 405 (Quintanilla)	Relating to the storage, transportation, and disposal of tires; providing criminal penalties.		Creates a scrap tire fee/reimbursement program managed by the Comptroller's Office. Scrap tire generators who sell new or used tires would be required to collect a fee of \$4 per passenger tire and \$10 for each commercial tire sold. The revenue collected would be forwarded to the Comptroller. All generators, as defined in the bill, who send a scrap tire for disposal or storage must pay the storage or disposal facility to accept tires (\$2.50 per passenger tire and \$7.50 per commercial tire). The Comptroller shall, on application by the generator, reimburse the generator \$3 per passenger tire and \$8.50 per commercial tire. Fees collected under the program would be used to reimburse generators, cover the cost of administering the program, and remaining funds would be used for innovative programs to recover waste tires left in open spaces.	Extensive recommendations	Referred to HER on 2/16/11	JA	Brooke Jackson
HB 571 (Huberty)	Relating to the regulation of certain aggregate production operations by the TCEQ, providing penalties.	SB 160 (Williams)	Proposes to create a new aggregates registration and inspection program. Requires aggregate production operations to register with TCEQ (and renew the registration annually), requires TCEQ to survey the state annually for aggregate production facilities, requires TCEQ to inspect each aggregate production operation every three years, requires TCEQ to establish registration fees, and establishes penalties for failing to obtain a registration.	See bill analysis.	Voted favorably from HNR as substitute 3/15/11	MH	Daphne McMurrer
HB 648 (Menendez)	Relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.	SB 341 (Uresti)	Would require TCEQ to appoint a conservator for Bexar Metropolitan Water District's (BMWD) until an election can be held. If the election to dissolve the district passes, the TCEQ will appoint a receiver within 60 days. The receiver will, under the TCEQ and Committee's oversight, transfer or assign BMWD's rights and duties, which include contracts, assets and liabilities to one or more appropriate entities.	None recommended.	Voted favorably from HNR as substitute 3/15/11	IJ	Doug Holcomb

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 695 (Allen)</p>	<p>Relating to the establishment of a program for the collection, transportation, recycling, and disposal of mercury-added thermostats.</p>		<p>Proposes to require manufacturers of mercury-added thermostats sold in Texas to establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. Program requirements for manufacturers would include responsibility for collecting, handling, transporting, and recycling or disposing of out-of-service mercury-added thermostats, as well as providing and posting education and outreach materials on the Internet, providing the TCEQ with a link to such materials, and making educational and other outreach materials available to participating retailers, wholesalers, and household hazardous waste programs. Manufacturers would be directed to submit annual progress reports to the TCEQ and to post the progress reports on the internet and provide the TCEQ with a link. The bill would further create responsibilities for thermostat retailers, wholesalers, and air-conditioning and refrigeration contractors. The bill would prohibit persons from selling or offering for sale thermostats manufactured by noncompliant manufacturers. The bill would further create responsibilities for thermostat retailers, wholesalers, and air-conditioning and refrigeration contractors. The bill would prohibit persons from selling or offering for sale thermostats manufactured by noncompliant manufacturers. The bill would require TCEQ to: post or provide a link on</p>	<p>See also HB 4056 (81R).</p>	<p>Referred to HER on 2/21/11</p>	<p>JA</p>	<p>Cynthia Carter</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 820 (Farrar)</p>	<p>Relating to monitoring air contaminants under the Texas Clean Air Act.</p>			<p>See also HB 4085 (81R). Sec. 382.0161: The bill requires owners and operators to fence-line monitor for any hazardous air pollutants applicable to the source which are listed under Section 112 of the federal CAA (42 U.S.C. Section 7412). This may not be possible for all pollutants on the list as there are no currently approved monitoring methods for some of the pollutants on the hazardous pollutant list. Therefore, it is recommended that the language in the bill be changed to state that monitoring must be conducted for any hazardous air pollutants that are on the list for which there are EPA-approved monitoring and analysis methods. Sec. 382.0161(c)(3): This section requires the placement of fence-line monitors that are “evenly spaced” and “located where air contaminants have the highest concentration levels at the fence line”. There may be cases where both conditions could not be met simultaneously. There is already a requirement in (c)(2) that the maximum distance between monitors be one-eighth of a mile. Retaining this requirement, and changing (c)(3) to retain the requirement for placement where air contaminants have the highest concentration levels while omitting the requirement for evenly spacing the monitors, should eliminate the problem without compromising the intent.</p>	<p>Referred to HER on 2/23/11</p>	<p>JA</p>	<p>Ken Rozachy</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 821 (Farrar)</p>	<p>Relating to a prohibition on the disposal of certain used equipment at a municipal solid waste facility.</p>		<p>Proposes to prohibit the disposal of used computer equipment in a solid waste landfill or incinerator, and provides for the assessment of penalties for violation of the disposal prohibition. The bill would define “used equipment”, require the TCEQ to prohibit, by rules, a person from knowingly disposing used equipment in a MSW landfill or incinerator, and to exempt the owner/operators of a MSW landfill or incinerator from being in violation if they make good faith effort, post appropriate signs, and notify registered customers of the disposal prohibition in writing. The bill changes Section 361.966 of the Health and Safety Code relating to federal preemption and subsequent expiration of a portion of Subchapter Y of the Health and Safety Code. The current law provides for expiration of the entire subchapter if the federal government adopts a comprehensive equipment recycling program. The proposed version designates specific sections of the Subchapter to expire in this situation.</p>	<p>The TCEQ recommends the following revision to Section 4: “The Texas Commission on Environmental Quality shall adopt rules to implement this Act as soon as practicable after the effective date of the Act. not later than December 31, 2011.”</p> <p>The author may wish to modify the language to include specific measures that the facility owner or operator must take to implement the requirements of the proposed statute to demonstrate this good faith effort. This could include items such as modifying their Waste Acceptance Plan to prohibit the collection of computer equipment, training of facility employees, limiting the number of times that an incidental non-compliance with the proposed statute and resulting rules would not be considered a violation, or other requirements.</p> <p>It is more likely that the bill could be effectively enforced if the requirement to prove “intentionally or knowingly” were deleted.</p>	<p>Referred to HER on 2/23/11</p>	<p>JA</p>	<p>Lynn Bell</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 822 (Farrar)	Relating to reducing mercury emissions from electric generating facilities.		Specifies that for each annual period (May 1 through April 30 beginning from May 1, 2013 through April 30, 2014) total annual mercury or mercury compound emissions from each electric generating facility (EGF) that generates electric energy for compensation, including a facility owned or operated by a municipal corporation, electric cooperative, or river authority, may not exceed 10% of the facility's total mercury and mercury compound emissions from 2002 as reported to the TCEQ. For an EGF that was not in operation for all or any part of 2002 or not operating at full capacity, the commission may impose for the facility a maximum allowable level that corresponds to 10% of an emissions level the commission estimates the facility would have emitted had the facility operated at full capacity throughout that year. The TCEQ may assess penalties if the EGF emits more "mercury or mercury compounds" than allowed for the reporting period. The penalty shall be based by assessing an administrative penalty for each unit weight of emissions of mercury or mercury compounds by which the facility exceeds the emissions limit and issuing an order reducing the quantity of mercury and mercury compounds that the facility may emit in the next annual emissions period by a quantity of emissions equal to the excessive emissions in the current annual emissions period. In	See also HB 4082 (81R).	Referred to HER on 2/23/11	JA	Brian Foster
HB 830 (Dutton)	Relating to the consideration of the cumulative effects of air contaminant emissions in the emissions permitting process.		Would require that for new permit, amendment, and permit renewal applications, cumulative effects would need to be considered from air contaminants from the facility in the application and from other facilities located within three miles of this facility.	See also HB 290 (81R).	Referred to HER on 2/23/11	JA	Dom Ruggeri

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 856 (Dutton)</p>	<p>Relating to the powers and duties of the Texas Commission on Environmental Quality and other entities regarding water and sewer utilities.</p>		<p>Proposes to change this process by requiring an additional 60 days or 120 days total before a rate increase may go into effect after notice is provided. It also proposes a process whereby the proposed rate increase is suspended if enough protests are received to trigger a hearing. Eliminates the option for a local regulatory authority to set interim rates and repeals a provision which allows a local regulatory authority to suspend the effective date of a rate change. If a hearing is not set the rates are automatically approved as requested by the utility. Changes the time a utility may file a rate change application from 12 months to 36 months. It also requires a utility to submit a rate change application no later than 60 months from the effective date of the last utility's filing, unless the utility can show good cause for the delay in filing. Repeals a provision which allows a regulatory authority the ability to require refunds of money collected on the proposed rate before the rate was suspended or an interim rate was established.</p>	<p>None recommended.</p>	<p>Referred to HER on 2/24/11</p>	<p>IJ</p>	<p>Lisa Fuentes</p>
<p>HB 918 (Allen)</p>	<p>Relating to permit application requirements for solid waste facilities.</p>		<p>Adds requirements related to the content of a solid waste permit application., requiring that a permit application contain: (1) a certification from the applicant that the applicant has mailed to each resident living one mile or less from the site and each community organization, nonprofit organization, or civic club located two miles or less from the site: (A) an explanation of the site's proposed operations; (B) a questionnaire seeking community comments regarding the site's proposed operations; and (2) any comments made by residents, organizations, or clubs in response to the questionnaire.</p>	<p>See also HB 2265 (81R). The bill could define "each community organization, nonprofit organization, or civic club" and how to obtain mailing addresses, or it could require notice to be mailed to all residents within 2 miles. In order to alleviate confusion on the part of the permit applicant, the bill could identify specific questions that would be asked on the questionnaire and whether the questionnaire will be standardized or be developed by each permit applicant individually. The bill could clarify whether the permit applicant would be expected to respond to comments received on the questionnaire. The bill could be revised to specify whether it only applies to permits for new facilities or whether it would also apply to other types of applications.</p>	<p>Referred to HER on 2/24/11</p>	<p>JA</p>	<p>Lynn Bell</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 919 (Allen)</p>	<p>Relating to monitoring, permitting, and reducing emissions of certain air contaminants and pollutants.</p>		<p>Proposes to codify the commission's current Air Pollutant Watch List (APWL) process. The APWL must identify each air contaminant to be included and each geographic area of the state where ambient air monitoring indicates either individual or cumulative emissions may cause short-term or long-term health effects or odors. The proposed language includes requirements for publishing notice and allowing public comment on the addition or removal of a contaminant or area, and a requirement for a public meeting in APWL areas to provide residents with information on the reasons for including an area on the APWL and TCEQ actions to reduce emissions of specific air contaminants in that area. The proposed legislation will also exempt the APWL from rulemaking procedures under Subchapter B, Chapter 2001, Government Code. Also requires the TCEQ to implement a strategic plan for each area on the APWL to reduce emissions to a degree that an area may be removed from the APWL list over a period not to exceed five years. The plan must include benchmarks and monitoring schedules for achieving reduced emissions, a procedure to identify sources that are out of compliance, and a way to bring out-of-compliance sources into compliance using enforcement available to TCEQ. The plan must also include methods by which owners and operators of sources may cooperate</p>	<p>See also HB 2912(81R).</p>	<p>Referred to HER on 2/24/11</p>	<p>JA</p>	<p>Lindsey Jones</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">HB 977 (Burnam)</p>	<p>Relating to the development of a climate adaptation plan by certain entities.</p>	<p align="center">SB 424 (Ellis)</p>	<p>Would require 12 state agencies, including the TCEQ, to each develop and publish a climate adaptation plan no later than September 1, 2012, and before the end of each successive four-year period after that date. The plan must be posted on a publically accessible Internet Web site and copies of the plan electronically submitted to the governor, lieutenant governor, the speaker of the House of Representatives, the presiding officer of each standing environmental committee, and the executive director of the TCEQ. Each entity's plan will be required to contain: a climate change vulnerability assessment; a review of existing programs in the context of anticipated climate change; specific steps necessary for entities to fulfill their missions during anticipated climate change; analysis of the identified steps and their budgetary impact during the next five and ten years; potential funding sources; a statewide strategy to monitor continuing effects of climate change; and a written statement by the Texas state climatologist regarding the adequacy of the scientific basis of the plan. Each entity must consider the most current assessment reports created by the United States Global Change Research Program and consult with the Texas state climatologist or another climate expert employed at a Texas institution of higher education or nonprofit research institution during development of its report.</p>		<p>Referred to House State Affairs on 2/28/11</p>	<p align="center">MH</p>	<p align="center">Brian Foster</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 1007 (Larson)	Relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.	HB 1752 (Larson)	Requires TCEQ to appoint a conservator for Bexar Metropolitan Water District (BMWD) until an election can be held. During the period before the election BMWD's board of directors will be advised and work cooperatively with the conservator to complete an inventory of rights, duties, assets, contracts, liabilities and permits and develop a comprehensive rehabilitation plan. BMWD will pay the salary and expenses of the conservator. The bill provides for the TCEQ to hold an election in the district on whether the district should be dissolved. The election must be held on the next uniform election date that occurs at least 60 days after Department of Justice preclearance is received or 60 days after the Commission determines that preclearance is not required. If the election to dissolve the district does not pass, the conservator will report to the TCEQ concerning the rehabilitation of BMWD. TCEQ will evaluate the plan and order BMWD to implement any necessary part of the rehabilitation plan. TCEQ will determine when the conservatorship is no longer required and issue an order dissolving the conservatorship. If the election to dissolve the district does not pass, the conservator will report to the TCEQ concerning the rehabilitation of BMWD. TCEQ will evaluate the plan and order BMWD to implement any necessary part of the rehabilitation plan. TCEQ will determine when the conservatorship is no longer required and issue an order dissolving the conservatorship. If the election to dissolve the district passes, the conservator under the TCEQ oversight will transfer or assign BMWD's rights, duties, assets, contracts, liabilities and permits to the San Antonio Water System (SAWS). The conservator will submit a written report summarizing his actions and dissolving BMWD. Not later than 10 days after receiving the report and determining the requirements have been fulfilled, the TCEQ shall enter an order	The bill author may want to consider adding language to provide for reimbursement to TCEQ for the election from either BMWD or SAWS since the TCEQ does not budget or have funds available for elections. The bill author may also want to consider directing Bexar, Medina and Atascosa Counties to hold the election since TCEQ has no experience in calling and conducting elections. As another alternative, the bill author may want to consider allowing TCEQ to contract out the election and specify that BMWD will pay for it. The bill author may want to consider extending the 60 day deadline in Sec. 40 to 120 days. The bill requires the election to be held as soon as 60 days after preclearance is received. The bill also requires the Commission to issue an order calling the election and to publish notice at least 35 days before the election date. Depending on when preclearance is received, it may not be possible for the Commission to issue an order and publish notice within the time allowed by the bill. The bill author may want to consider extending the 10 day deadline in Sec. 41(d) to 30 days. The bill requires the Commission to enter an order dissolving the district and releasing the conservator within 10 days after receiving a report that the conservator has completed the transfer of all district assets. It may not be possible for the Commission to approve an order in the time allowed by the bill. The bill author may want to consider specifying what enforcement authority the TCEQ has if the District fails to comply with a Commission order issued under Sec. 43(b). The bill specifies that the Commission may order the District to implement any part of the rehabilitation plan, but does not specify what remedy is available to the Commission if the District does not comply.	Referred to HNR on 2/28/11	IJ	Doug Holcomb
HB 1037 (Otto)	Relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.	SB 385 (Williams)	Establishes a new grant program, the Alternative Fueling Facilities Program, to be administered by the TCEQ.	Staff recommends removing the language in the new Section 393.006(1) limiting the eligible costs to those incurred in one calendar year. Staff recommends language requiring a commitment by grant recipients to own and operate the grant-funded facility for at least a specified period of time, such as five years.	Referred to HER on 3/3/11	TB	Steve Dayton

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">HB 1126 (Burnam)</p>	<p>Relating to the control of emissions from crude oil and condensate storage tanks in certain areas of this state.</p>		<p>Proposes to require the use of vapor recovery systems or control devices on any storage tank or tank battery located in the 24-county Barnett Shale hydrocarbon-producing geological formation that is used to store crude oil or condensate before custody transfer or at a pipeline breakout station. The controls would be required for storage tanks or tank batteries depending on the potential to emit volatile organic compounds (VOC) and the start date of operations. For tanks beginning operation before September 1, 2012, controls would be required on any tank or tank battery that has a potential to emit an aggregate of 10 or more tons of VOC in any 12-month period if not controlled.</p>	<p>Applicability language</p>	<p>Referred to HER on 3/3/11</p>	<p align="center">MH</p>	<p align="center">Keith Sheedy</p>
<p align="center">HB 1145 (Geren)</p>	<p>Relating to air monitors in Texas Commission on Environmental Quality Regions 3 and 4 to be funded through the Texas emissions reduction plan.</p>	<p align="center">SB 527 (Fraser)</p>	<p>Allocates money from the revenue deposited to the Texas Emissions Reduction Plan (TERP) Fund to fund the implementation and oversight of a regional air monitoring program in commission Regions 3 and 4. The program is to be implemented through a nonprofit entity in the North Texas area and no specific monitoring by TCEQ is required.</p>	<p>Changes made in SB 527.</p>	<p>Pending HER 3/9/11</p>	<p align="center">TB</p>	<p align="center">Steve Dayton</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">HB 1223 (Workman)</p>	<p>Relating to the procedures by which certain small water and sewer utilities.</p>		<p>Establishes procedures for small water or sewer utilities with fewer than 1,000 taps or connections to change their water rates. A small utility will be required to seek customer approval for any rate increase through an election held using a prescribed method. If the increase is approved by the ratepayers, the TCEQ must administratively certify the increase. If the rate increase is not approved by the ratepayers, the utility may file a rate change with the TCEQ, as currently allowed by the Water Code. If a hearing is held on the rate increase, the utility may not recover rate case expenses. The bill also requires the TCEQ to appoint a public advocate to represent the ratepayers at a hearing. In addition, the utility may not hold a rate election more than once in a 24-month period, unless TCEQ grants an exemption.</p>	<p>The bill requires the Commission to appoint a public advocate to represent the ratepayers in a rate hearing. Appointment of a public advocate for individual ratepayers would expand the role of the Commission with regards to rate hearings. Under existing statutes and agency policy, the agency remains neutral with regards to individual ratepayers and the utility. The Executive Director's staff ensures that rates are just and reasonable. The Office of Public Interest Counsel (OPIC) represents the public interest. Adding representation of individuals' interests may lead to the appearance of partiality and a conflict of interest for the Executive Director's staff. To best maintain the appearance of neutrality, and avoid a conflict of interest, staff recommends that placement of the new position be in OPIC. However, to place this position in OPIC would require changes to Water Code, Chapter 5, with respect to the duties and functions of OPIC. The bill's author could consider clarifying if the public advocate is required to be a licensed attorney in Texas, or a professional consultant, and if the Commission is required to pay for the advocate's services. If the advocate is an attorney and is appointed by the Commission to represent the customers, consideration will have to be given to how the appointment is handled to avoid interference with the attorney-client relationship.</p>	<p>Referred to HNR on 3/1/11</p>	<p align="center">IJ</p>	<p align="center">Lisa Fuentes</p>
<p align="center">HB 1319 (Laubenberg)</p>	<p>Relating to the calculation and reporting of water usage and conservation by municipalities and water utilities.</p>		<p>Would require the commission and the Texas Water Development Board ("Board"), in consultation with the Water Conservation Advisory Council ("WCAC"), to develop a uniform system for calculating water use and conservation by January 1, 2013. The system would be used by a municipality or water utility in developing water conservation plans and preparing reports.</p>	<p>None recommended.</p>	<p>Pending HNR 3/8/11</p>	<p align="center">IJ</p>	<p align="center">Kellye Rila</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 1487 (Gutierrez)	Relating to a study comparing the effects on retail water and sewer utility service rates of acquiring by certain means additional water for Bexar County retail water and sewer utility service consumers.		The bill requires the Texas Commission on Environmental Quality (TCEQ) to conduct a study on the impact to retail water and sewer utility customer's rates in Bexar County if an additional 40,000 acre-feet of water supply was available either from a desalination project or piping in additional surface water from the east or west of Bexar County. TCEQ shall consult with the Texas Water Development Board (TWDB), which shall assist with the study. TCEQ shall publish the results of the study on its website no later than December 1, 2012, and deliver the study results to the Governor, the Lieutenant Governor, the Speaker of the House, all house committees with jurisdiction over water resources or water utilities and the Bexar County Commissioners Court.	The bill does not provide funding or additional resources or allow the TCEQ to contract for the study. The engineering work and rate studies and design could create a conflict with the agency's regulatory authority. The TCEQ may be required to review the rates of Bexar County water and sewer retail public utilities under our original or appellate jurisdiction. Creating a rate study for this area may impact the perception of objectivity for review of rate cases in this area.	Referred to HNR on 3/2/11	IJ	Doug Holcomb
HB 1558 (Reynolds)	Relating to applications for permits issued by the Texas Commission on Environmental Quality for certain new or expanded facilities in certain low-income and minority communities.	SB 549 (Ellis)	Proposes requiring all entities applying for an environmental permit under Chapters 361 and 382 of the Texas Health & Safety Code or Chapters 26 and 27 of the Texas Water Code for a new or expanding facility to submit an environmental justice report. The commission would be required to review the report to determine if the facility will be located in an environmental justice community and publish its findings in writing. If located in an environmental justice community, an applicant would be required to prepare a public participation plan, obtain commission approval of the plan, coordinate with local elected officials, and participate in a public hearing conducted by the commission to address issues of environmental justice posed by the facility. The commission would not be able to take action on an application until the 60th day after the date of the environmental justice hearing.	It appears that any entity required to obtain the many different types of authorizations under the chapters listed would be subject to the requirements under the bill. The agency requests further clarification on whether it is the intent of the bill that all authorizations, including general permits, standard permits, permits by rule, etc., many of which do not require notice or individual review, be included. Also, a definition for "facility expansion" could be added to clarify the applicability of the bill. Finally, the commission seeks clarification whether a public hearing held under the requirements of the bill would be subject to Chapter 2001 of the Government Code.	Referred to HER on 3/3/11	EL	Brad Patterson

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 1664 (King, S)	Relating to the authority of the Texas Commission on Environmental Quality to require metering of certain water uses in connection with a water conservation plan submitted by applicants for or holders of a water right.		<p>The bill would require that rules adopted by the commission could not require the metering of water withdrawn from a lake by an owner or lessee of property adjacent to the lake to irrigate a lawn or family garden located on the property. This would apply only to lakes that are not used to supply public drinking water.</p> <p>The bill only affects TCEQ's water conservation rules related to requirements for water meters. The bill does not affect who has authorization to withdraw water from a lake.</p>	None recommended.	Filed 2/22/11	IJ	Kellye Rila
HB 1731 (Ritter)	Relating to the management of groundwater resources in this state and the rights of landowners in groundwater.	SB 667 (Duncan)		None recommended.	Referred to HNR on 3/3/11	IJ	Kelly Mills

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 1752 (Larson)	Relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.	HB 1007 (Larson)	Requires TCEQ to appoint a conservator for Bexar Metropolitan Water District (BMWD) until an election can be held. During the period before the election BMWD's board of directors will be advised and work cooperatively with the conservator to complete an inventory of rights, duties, assets, contracts, liabilities and permits and develop a comprehensive rehabilitation plan. BMWD will pay the salary and expenses of the conservator.	The bill author may want to consider adding language to provide for reimbursement to TCEQ for the election from either BMWD or SAWS since the TCEQ does not budget or have funds available for elections. The bill author may also want to consider directing Bexar, Medina and Atascosa Counties to hold the election since TCEQ has no experience in calling and conducting elections. As another alternative, the bill author may want to consider allowing TCEQ to contract out the election and specify that BMWD will pay for it. The bill author may want to consider extending the 60 day deadline in Sec. 40 to 120 days. The bill requires the election to be held as soon as 60 days after preclearance is received. The bill also requires the Commission to issue an order calling the election and to publish notice at least 35 days before the election date. Depending on when preclearance is received, it may not be possible for the Commission to issue an order and publish notice within the time allowed by the bill. The bill author may want to consider extending the 10 day deadline in Sec. 41(d) to 30 days. The bill requires the Commission to enter an order dissolving the district and releasing the conservator within 10 days after receiving a report that the conservator has completed the transfer of all district assets. It may not be possible for the Commission to approve an order in the time allowed by the bill. The bill author may want to consider specifying what enforcement authority the TCEQ has if the District fails to comply with a Commission order issued under Sec. 43(b). The bill specifies that the Commission may order the District to implement any part of the rehabilitation plan, but does not specify what remedy is	Pending HNR 3/8/11	IJ	Doug Holcomb

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 1775 (Allen)</p>	<p>Relating to a study on waste reduction and a statewide waste reduction plan.</p>		<p>Would require the TCEQ to appoint a waste reduction stakeholders committee to study and report on waste reduction in Texas. Members of the committee would consist of representatives from businesses, industry, the public and private sectors, academia, nonprofits, and the general public. The study the committee would be required to conduct would have to: assess current waste reduction efforts and identify ways to improve and increase those efforts; assess the effectiveness of waste reduction statutes, regulations, and programs; assess the extent to which the state's waste reduction programs are duplicative; investigate available funding for waste reduction programs; review waste reduction education programs; review current standards for training and certification of waste reduction professionals and reporting amounts of waste recycled; review waste reduction best practices; and assess job creation opportunities associated with waste reduction.</p>	<p>It is recommended that the author add to the beginning of the bill what law would be revised. We assume that it would amend the Texas Health and Safety Code Chapter 361, Subchapter Q.</p> <p>Section 2(a) describes the representatives that would make up the stakeholder committee. TCEQ already has two committees in place – the Municipal Solid Waste Advisory Council and the Pollution Prevention Advisory Committee – that consist of similar representatives. The author may want to consider whether it is necessary to ask the commission to appoint a new committee, or whether an existing committee (or two) could be tasked with conducting this study. The reason for this suggested change is that it may be more efficient to use an existing committee(s). The potential consequences if the language is not changed would be potential duplication of existing committees or efforts.</p>	<p>Referred to HER on 3/3/11</p>	<p>JA</p>	<p>Cynthia Carter</p>
<p>HB 1811 (Burnam)</p>	<p>Relating to the establishment of a program for the collection, transportation, recycling, and disposal of mercury-containing lights.</p>				<p>Referred to HER on 3/3/11</p>	<p>JA</p>	<p>Cynthia Carter</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">HB 1914 (Smith, W)</p>	<p>Relating to financial assurance required for certain commercial solid waste facilities by the Texas Commission on Environmental Quality.</p>		<p>This bill would mandate the agency to require financial assurance as a condition for issuing a registration or permit for the collection, transportation, or processing of grit trap waste or grease trap waste.</p> <p>The bill would also require the agency to adopt rules to require additional financial assurance for a commercial solid waste facility, including permittees or registrants who collect, transport, or process grease trap waste or grit trap waste, if the facility treats or processes liquid waste or industrial nonhazardous waste, for disposal off-site or by discharge.</p>	<p>The bill refers to "commercial solid waste facilities"; it is not clear whether this clause has specific intent or meaning in the bill.</p> <p>As written, this provision will include facilities that process solid waste (e.g. transfer stations, material recovery facilities, incineration facilities). If this is not the intent of the bill, we would suggest adding the word "liquid" between the words nonhazardous and waste.</p> <p>If the intent of the bill is to require additional financial assurance for facilities with a "poor" compliance record and not Greenfield sites, then the bill could be revised to read, "(B) a poor compliance record or classification as the term is defined by the commission; and..."</p> <p>This bill applies to facilities that have "alleged" violations. This additional FA could be required of a facility that simply had allegations of violations.</p> <p>The author may want to consider a set amount or a factor for the additional amount of financial assurance required over the amount required for closure.</p>	<p>Referred to HER on 3/7/11</p>	<p align="center">JA</p>	<p align="center">Lynn Bell</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 1966 (Chisum)</p>	<p>Relating to the sale, recovery, and recycling of certain television equipment.</p>	<p>HB 88 (Cook) and SB 329 (Watson)</p>	<p>Would create a television equipment recycling program, separate from and more extensive than the existing computer equipment recycling program. The bill includes shared responsibility among consumers, retailers, manufacturers, and the government of this state for recycling covered television equipment.</p> <p>The bill would require manufacturers of covered television equipment to register with the state and pay a registration fee of \$2,500 each year, in addition to providing other information about their television equipment recycling activities. The manufacturers would also be required to establish programs for the collection, transport, and recycling of television equipment from consumers – free to consumers at the time of recycling. Manufacturers would have to submit a plan with details of their recycling program to the TCEQ, and report on the program to the TCEQ annually.</p>		<p>Referred to HER on 3/7/11</p>	<p>JA</p>	<p>Cynthia Carter</p>
<p>HB 1981 (Smith, W)</p>	<p>Relating to measuring, monitoring, and reporting emissions.</p>	<p>SB 672 (Gallegos)</p>			<p>Filed 3/1/11</p>	<p>MH</p>	<p>Lindsey Jones</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p style="text-align: center;">HB 2013 (Hardcastle)</p>	<p>Relating to the disposal of demolition waste from abandoned or nuisance buildings in certain areas.</p>	<p style="text-align: center;">SB 1258 (Duncan)</p>	<p>Bill would enable certain counties or municipalities to dispose of, on land that the county or municipality owns or controls and that meets arid exemption (AE) requirements, demolition waste from buildings that are abandoned or found to be a nuisance. The bill specifies that the county or municipality population would be 10,000 or less.</p> <p>The bill would allow the commission the option to authorize this activity and facility via permit by rule. The bill would also enable the commission to adopt rules to control waste management activities and facility operations relating to this disposal activity to protect public and private property, right of way, groundwater, and other rights that require protection.</p>		<p>Filed 3/1/11</p>	<p style="text-align: center;">MH</p>	<p style="text-align: center;">Lynn Bell</p>
<p style="text-align: center;">HB 2083 (Lozano)</p>	<p>Relating to notice of and issuance of a permit for the construction or expansion of a wind-powered electric generation facility located near a federally owned or operated radar installation or military installation.</p>				<p>Filed 3/2/11</p>	<p style="text-align: center;">JA</p>	<p style="text-align: center;">Janis Hudson</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p>HB 2145 (Garza)</p>	<p>Relating to the Bexar Metropolitan Water District.</p>			<p>The bill author may want to consider adding language to provide for reimbursement to TCEQ for the election from either BMWD or AWD since the TCEQ does not budget or have funds available for elections. The bill author may also want to consider directing Bexar, Medina and Atascosa Counties to hold the election since TCEQ has no experience in calling and conducting elections. As another alternative, the bill author may want to consider allowing TCEQ to contract out the election and specify that BMWD or AWD will pay for it.</p> <p>The bill author may want to consider extending the 60 day deadline in Sec. 40 to 120 days. The bill requires the election to be held as soon as 60 days after preclearance is received. The bill also requires the Commission to issue an order calling the election and to publish notice at least 35 days before the election date. Depending on when preclearance is received, it may not possible for the Commission to issue an order and publish notice within the time allowed by the bill.</p>	<p>Referred to SNR on 3/8/11</p>	<p>IJ</p>	<p>Doug Holcomb</p>
<p>HB 2184 (Lewis)</p>	<p>Relating to the identification and enhancement of new and existing state revenue streams from certain new and existing programs involving the state's policy in regard to the disposition of low-level radioactive waste.</p>				<p>Pending House State Affairs 3/14/11</p>	<p>TB</p>	<p>Devane Clarke</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 2268 (Hancock)	Relating to compliance with state and federal environmental permits.	SB 875 (Fraser)	<p>Would add new TEX. WATER CODE § 7.257. As introduced, Section 1 of the bill would provide an affirmative defense to a nuisance or trespass violation by creating a cross reference to the definition of person, as defined by Section 382.003 of the Health and Safety Code. The affirmative defense requires two prongs: 1) the person must have an authorization and 2) the person is in general compliance with the authorization while the violation occurred or the person received enforcement discretion.</p> <p>Section 2 of the bill provides that this new section would apply only to an enforcement action or prosecution that is commenced on or after the effective date of the bill, and includes a savings clause for existing law for earlier enforcement actions.</p> <p>Section 3 of the bill provides that the effective date will be September 1, 2011, or immediately if it receives a vote of two-thirds of the members of each house of the Legislature.</p>		Referred to HER on 3/10/11	MH	Anna Treadwell

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 2400 (Miller)	Relating to the powers and duties of the Texas Commission on Environmental Quality and other entities regarding water and sewer utilities and certain conservation and reclamation districts.		<p>Current law states that a rate increase may go into effect 60 days after notice is provided. The bill proposes to increase this period to 120 days. Current law gives a regulatory authority with original jurisdiction over a rate increase the discretion to suspend the proposed effective date of the proposed rate change if the required number of protests are received and limits the number of days it may suspend the proposed effective date. The bill would require the regulatory authority to suspend the proposed effective date from the time the matter is set for hearing until the authority issues a final decision. The bill eliminates the option for a local regulatory authority to establish interim rates or an escrow account. If a hearing is not set, the bill provides that the rates are automatically approved as requested by the utility. The bill repeals provisions inconsistent with the amendments described above, including provisions regarding a regulatory authority's suspension of the proposed effective date of a rate change, and provisions authorizing the authority to establish and release funds from escrow accounts, fix interim rates, or require refunds of money collected on the proposed rate before the rate was suspended or an interim rate was established. The bill also repeals a provision that authorizes the utility to collect the difference between interim rates and final rates set by the regulatory authority if the final rate is higher. This bill only applies to applications received on or after the proposed effective date.</p> <p>Current law allows a municipality or a district to provide retail water or sewer utility service without a</p>	None recommended.	Referred to HNR on 3/10/11	IJ	Lisa Fuentes
HB 2431 (Smith, W)	Relating to compliance histories for and incentives to reward compliance performance by entities regulated by the Texas Commission on Environmental Quality.				Referred to HER on 3/14/11	MH	Melinda Johnston
HB 2639 (Chisum)	Relating to motor vehicle inspections that employ remote sensing equipment.	SB 1515 (Deuell)			Filed 3/9/11	JA	Morris Brown

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">HB 2694 (Smith, W)</p>	<p>Relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.</p>	<p align="center">SB 657 (Huffman)</p>			<p align="center">Filed 3/9/11</p>	<p align="center">TB</p>	<p align="center">Diane Mazuca</p>
<p align="center">HB 2832 (Smith, W)</p>	<p>Relating to the idling of motor vehicles.</p>		<p>SECTION 1 of the bill adds a new Section 382.0191 to the HSC to restrict the TCEQ from prohibiting or limiting the idling of a motor vehicle with a gross vehicle weight rating (GVRW) greater than 8,500 pounds (lbs) equipped with a 2008 and newer diesel engine that has been certified by the United States Environmental Protection Agency (EPA) or another state environmental agency to emit no more than 30 grams of nitrogen oxides (NOX) emissions per hour when idling.</p> <p>SECTION 2 of the bill adds Section 622.955 to the TC to define idle reduction systems; to allow a vehicle equipped with an idle reduction system to exceed the maximum gross vehicle weight limit and axle weight limit prescribed for the vehicle by up to 400 lbs to compensate for the additional weight of the system; and to require the operator of a vehicle equipped with an idle reduction system to provide proof upon request by a law enforcement officer or an official of an appropriate regulatory agency that the idle reduction system is fully operational and that the weight increase is used only for the idle reduction system.</p>		<p align="center">Filed 3/10/11</p>	<p align="center">MH</p>	<p align="center">Morris Brown</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 2871 (Aliseda)	Relating to a disposal fee for motor vehicle tires.		<p>The bill establishes a motor vehicle tire disposal fee in Health & Safety Code Chapter 361 for the purpose of properly disposing of or recycling of used or scrap tires.</p> <p>A person who sells new or used motor vehicle tires is required to collect the fee.</p> <p>TCEQ is required to determine the amount of the fee, and is required to adopt rules to administer the new section by January 1, 2012.</p> <p>The bill also requires that used and scrap tires collected by a person who sells new or used motor vehicle tires must dispose of the tires in a manner consistent with H&SC 361.122 and TCEQ rules.</p>	<p>361.432(b) specifies that the commission will determine the amount of the fee; however, the bill does not specify who will collect the fees or who the fees should be remitted to. In similar types of existing programs (lead acid batteries, for example) where fees are collected by retail outlets, the Comptroller is designated to collect the fee because of their unique position in collecting taxes on retail sales. 361.432(b) and (c) do not offer any guidance to the commission on setting the fee amount by establishing either a maximum or minimum fee to reach a target annual revenue amount. Additionally, there are no provisions for the collecting agency to receive a percentage of the fee to administer collection of the fee. Often, there is an amount set aside for the collecting agency to recover their costs of administration. 361.432(c) does not specify or create a dedicated account within general revenue. In the absence of a dedicated account, the collected fees would be deposited to Unappropriated General Revenue. The requirement to adopt rules to implement this bill by January 1, 2012 does not allow sufficient time to obtain public comment and complete TCEQ rule writing procedures. In addition, the bill does not address enforcement or administrative penalties for noncompliance with the proposed rule.</p>	Filed 3/10/11	JA	Tony Galaviz
HB 2938 (Strama)	Relating to a grant program for certain natural gas motor vehicles.	SB 20 (Williams)			Filed 3/10/11	TB	Steve Dayton

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 2987 (Parker)	Relating to establishing an account for the purchase or operation of emissions monitoring devices in certain counties.		HB 2987 amends Chapter 382, Health & Safety Code, by adding new section 382.0336, which establishes the Urban County Air Monitoring (UCAMA) account, an account in the general revenue fund. The UCAMA will consist of any money deposited to the account including gifts, grants, or donations. Interest earned on the account will be credited to the account. Money in the account may be appropriated to TCEQ only for the purchase of air monitoring devices for use in a county with a population of 650,000 or more and in which there are more than 2,000 producing oil or gas wells. This account is exempted from provisions in Government Code section 403.095. This excludes the account or portions of the account from being available for general government purposes and prevents the Comptroller from being able to sweep the account.	Suggested new language would read: Sec. 382.0336. Urban County Air Monitoring Account. (a) The urban county air monitoring account is a dedicated account in the general revenue fund.	Filed 3/10/11	TB	Greg Yturralde
HB 3037 (Chisum)	Relating to contested case hearings for environmental permits.				Filed 3/10/11	EL	Janis Hudson
HB 3066 (Burnam)	Relating to regulation of air contaminant emissions from oil and gas wells.				Filed 3/10/11	JA	Julie Steger
HB 3110 (Craddick)	Relating to air permitting requirements for certain oil and gas facilities.				Filed 3/10/11	JA	Julie Steger
HB 3188 (Larson)	Relating to prohibiting the implementation in this state of any federal greenhouse gas emissions regulatory program.				Filed 3/10/11	MH	Kathy Pendleton
HB 3209 (Harless)	Relating to the computer equipment recycling program.				Filed 3/10/11	JA	Cynthia Carter

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 3268 (Lyne)	Relating to permits for air containment emissions of stationary natural gas engines used in combined heating and power systems.				Filed 3/11/11	JA	Steven Hagood
HB 3272 (Burnam)	Relating to the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.				Filed 3/11/11	TB	Morris Brown
HB 3310 (Rodriguez)	Relating to incentives for the purchase or lease of an electric-powered light-duty motor vehicle.				Filed 3/11/11	TB	Steve Dayton
HB 3405 (Chisum)	Relating to land reclamation projects using tires.	SB 1471 (Hinojosa)			Filed 3/11/11	JA	Brooke Jackson
HB 3412 (Darby)	Relating to regulation of the management and disposal of certain drinking water treatment residuals through underground injection.	SB 1715 (Duncan)			Filed 3/11/11	IJ	Devane Clarke
HB 3418 (Darby)	Relating to state fiscal matters related to natural resources and the environment.	SB 1584 (Ogden)			Filed 3/11/11	TB	Greg Yturralde
HB 3480 (Christian)	Relating to the stringency of requirements imposed by the Texas Commission on Environmental Quality.				Filed 3/11/11	MH	Janis Hudson
HB 3541 (Smith, W)	Relating to requirements to meet national ambient air quality standards.				Filed 3/11/11	JA	Dom Ruggeri

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HB 3544 (Farrar)	Relating to the authority of the Texas Commission on Environmental Quality to grant or deny an air containment emissions permit.				Filed 3/11/11	JA	Jayne Sadlier
HB 3545 (Farrar)	Relating to air contaminant emissions in air quality control regions.				Filed 3/11/11	JA	Brian Foster
HB 3602 (Garza)	Relating to a restriction on permits authorizing direct discharges of waste or pollutants into water in certain areas associated with the Barton Springs segment of the Edwards Aquifer.				Filed 3/11/11	IJ	Tracy Miller
HB 3668 (Callegari)	Relating to certificates of public convenience and necessity for water or sewer services.				Filed 3/11/11	IJ	Lisa Fuentes
HB 3699 (Turner, S)	Relating to the disposal of nonparty compact low-level radioactive waste at the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.				Filed 3/11/11	TB	Devane Clarke
HB 3754 (Hilderbran)	Relating to the powers and duties of the Office of Public Utility Counsel.				Filed 3/11/11	EL	Vic McWherter
HCR 66 (Hancock)	Urging the United States Congress to prevent the Environmental Protection Agency from regulating greenhouse gases for stationary sources.				Pending HER 3/9/11	MH	Kathy Pendleton

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
HCR 81 (Isaac)	Expressing opposition to federal regulation of hazardous waste, water, and clean air and of the production, exploration, operation, transportation, and processing of oil, natural gas, and petroleum products in Texas.				Referred to HER on 3/10/11	JH	Amie Richardson
SB 20 (Williams)	Relating to a grant program for certain natural gas motor vehicles.	HB 2938 (Strama)			Referred to Senate Transportation and Homeland Security 3/14/11	TB	Steve Dayton
SB 102 (Davis)	Relating to allocation of certain money in the Texas emissions reduction plan fund to air quality monitoring activities.		<p>Adds a new Section 386.059, Texas Health and Safety Code, to direct the TCEQ to conduct short-term and long-term air quality monitoring activities to evaluate levels of air contaminants, including particulate matter, nitrogen oxides, volatile organic compounds, air toxics, and carbon monoxide. The commission may hire staff and consultants to accomplish the monitoring activities.</p> <p>Changes the allocation percentage in Section 386.252(a), Texas Health and Safety Code, for money the Texas Emissions Reduction Plan (TERP) Fund going to the Diesel Emissions Reduction Incentive Program from 87.5 percent to 82.5 percent and allocates the additional five percent of the money to the commission to conduct continuous air monitoring activities.</p> <p>Also adds a new subsection (D) to Section 386.252(a), Texas Health and Safety Code, to direct that five percent of the 82.5 percent of the money in the TERP Fund allocated for the Diesel Emissions Reduction Incentive Program shall be used for the Clean Fleet Program. This provision is intended to clean up the language of this Section.</p>	<p>In SECTION 3 of the bill, the revisions to Section 386.252, Texas Health and Safety Code, do not include subsections (b), (c), and (d) that were added to this Section in the last session. These three subsections were included in one bill that passed and not included in another. Both versions were added to the code. It is recommended that these three subsections be included in the bill to clear up any confusion caused last session by two versions of this Section being included in the code.</p>	Referred to SNR on 1/31/11	TB	Kathleen O'Hara

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 160 (Williams)	Relating to the regulation of certain aggregate production operations by the TCEQ, providing penalties.	HB 571 (Hubberty)	Proposes to create a new aggregates registration and inspection program. The bill will require aggregate production operations to register with TCEQ (and renew the registration annually), will require TCEQ to survey the state annually for aggregate production facilities, will require TCEQ to inspect each aggregate production operation every three years, will require TCEQ to establish registration fees, and establishes penalties for failing to obtain a registration.	See bill analysis.	Placed on the Senate Intent for 03/16/11	MH	Daphne McMurrer
SB 329 (Watson)	Relating to the sale, recovery, and recycling of certain television equipment.	HB 88 (Cook) and HB 1966 (Chisum)	Reconciles two different versions of Section 386.252(a) that were enacted in 2009 by the 81st Texas Legislature through House Bill (HB) 1796 and Senate Bill (SB) 1759. This bill reenacts and amends Section 386.52(a) to include only one version of the allocation language.	See bill analysis.	Voted favorably from SNR as substitute 3/15/11	JA	Cynthia Carter
SB 338 (Gallegos)	Relating to penalty assessment for violations of the Texas Clean Air Act committed by major sources.		In assessing a penalty for a violation committed by a major source, requires the TCEQ to assess a penalty equal or greater than the economic benefit gained through the violation.	See also SB 457 (81R).	Referred to SNR on 2/2/11	MH	Melinda Johnston
SB 339 (Gallegos)	Relating to disclosure by the Texas Commission on Environmental Quality of information related to emissions events.		Authorizes the commission to allocate unexpended money designated for the alternative fueling facilities program to other programs under the Diesel Emissions Reduction Incentive Program after the commission allocates money to recipients under the new Alternative Fueling Facilities Program.	None. See also SB 459 (81R).	Referred to SNR on 2/2/11	JA	Cari Bing

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 341 (Uresti)	Relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.	HB 648 (Menendez)	Requires the TCEQ to appoint a conservator for Bexar Metropolitan Water District's (BMWD) until an election can be held. If the election to dissolve the district does not pass the conservator will report to the BMWD Oversight Committee (Committee) and the TCEQ concerning the rehabilitation of BMWD. TCEQ will evaluate the plan and order BMWD to implement any necessary part of the rehabilitation plan. Failure by BMWD to comply with the order may result in enforcement action under Water Code Chapter 13. TCEQ will determine when the conservator will be dismissed. If the election to dissolve the district passes, the TCEQ will appoint a receiver within 60 days. The receiver will, under the TCEQ and Committee's oversight, transfer or assign BMWD's rights and duties, which include contracts, assets and liabilities to one or more appropriate entities. Service should not be disrupted. The TCEQ will release the receiver and dissolve BMWD within 60 days after everything is transferred. The receiver will rebate any remaining funds to the ratepayers.	None recommended.	Placed on the Senate Intent for 03/16/11	IJ	Doug Holcomb
SB 368 (Seliger)	Relating to limits on the purpose of a fresh water supply district and on a district's exercise of the power of eminent domain.		Authorizes the Alternative Fueling Facilities Program whereas the commission shall establish and administer the new program to provide alternative fueling facilities for alternative fuel in nonattainment areas.	None recommended.	Referred to SNR on 2/2/11	IJ	Skip Ferris
SB 385 (Williams)	Relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.	HB 1037 (Otto)	Establishes a new grant program, the Alternative Fueling Facilities Program, to be administered by the TCEQ.		Referred to SNR on 2/2/11	TB	Steve Dayton
SB 399 (Carona)	Relating to a diesel vehicle emissions inspection and maintenance program and low-income vehicle repair assistance for diesel vehicles.		Authorizes the agency to include diesel vehicles in the vehicle inspection and maintenance (I/M) program if the agency determines that inspecting diesel vehicles would minimize emissions. Expands the Low-Income Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) to include diesel-powered vehicles.	None recommended.	Referred to SNR on 2/2/11	TB	Morris Brown

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 424 (Ellis)	Relating to the development of a climate adaptation plan by certain entities.	HB 977 (Burnam)	Requires 12 state agencies, including the TCEQ, to each develop and publish a climate adaptation plan no later than September 1, 2012, and before the end of each successive four-year period after that date. Each entity's plan will be required to contain: a climate change vulnerability assessment; a review of existing programs in the context of anticipated climate change; specific steps necessary for entities to fulfill their missions during anticipated climate change; analysis of the identified steps and their budgetary impact during the next five and ten years; potential funding sources; a statewide strategy to monitor continuing effects of climate change; and a written statement by the Texas state climatologist regarding the adequacy of the scientific basis of the plan. Each entity must consider the most current assessment reports created by the United States Global Change Research Program and consult with the Texas state climatologist or another climate expert employed at a Texas institution of higher education or nonprofit research institution during development of its report.		Referred to SNR on 2/2/11	MH	Brian Foster

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 455 (Ellis)	Relating to restrictions on the location and peration of concrete crushing facilities.		Adds two new types of buildings or facilities that shall be no closer than 440 yards from the operation of a concrete crushing facility. These two types of buildings or facilities are a place of business where employees of the business perform outdoor work, or a park or other outdoor recreational facility, including a playing field. Currently, the statute only identifies "a building in use as a single or multifamily residence, school, or place of worship" as a restriction on the location of a concrete crusher for compliance with the 440 yard buffer distance. Also rewords the distance measurement criteria. The bill proposes the measurement of the 440 yards to be the shortest distance between the crushing facility and the defined receptors; rather than the current requirement that the measurement be taken from the point on the concrete crushing facility nearest to the receptors.	See also SB 259 (81R).	Referred to SNR on 2/14/11	MH	Stephanie Howell
SB 467 (Wentworth)	Relating to the power of the Texas Commission on Environmental Quality to authorize certain injection wells that transect or terminate in the Edwards Aquifer.		Under this new program, an entity that constructs, reconstructs, or acquires a facility to store, compress, or dispense alternative fuels is eligible to participate in the program. The entity receiving the grant must agree to make the alternative fueling facility available to persons not associated with the entity at times designated in the grant agreement. A recipient may not receive a second grant for the same facility.	None recommended.	Referred to SNR on 2/14/11	IJ	Devane Clarke
SB 493 (Fraser)	Relating to the idling of motor vehicles.		The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency or a private nonprofit organization to receive a grant.	See also HB 3317and SB 1828 (81R). None recommended.	Voted favorably from SNR on 3/15/11	JA	Morris Brown
SB 527 (Fraser)	Relating to air monitors in Texas Commission on Environmental Quality Regions 3 and 4 to be funded through the Texas emissions reduction plan.	HB 1145 (Geren)	Allocates money from the revenue deposited to the Texas Emissions Reduction Plan (TERP) Fund to fund the implementation and oversight of a regional air monitoring program in commission Regions 3 and 4. The program is to be implemented through a nonprofit entity in the North Texas area and no specific monitoring by TCEQ is required.	Changes made in bill.	Placed on the Senate Intent for 03/16/11	TB	Steve Dayton

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 549 (Ellis)	Relating to applications for permits issued by the Texas Commission on Environmental Quality for certain new or expanded facilities in certain low-income and minority communities.	HB 1558 (Reynolds)	Requires all entities applying for an environmental permit under Chapters 361 and 382 of the Texas Health & Safety Code or Chapters 26 and 27 of the Texas Water Code for a new or expanding facility to submit an environmental justice report. The commission would be required to review the report to determine if the facility will be located in an environmental justice community and publish its findings in writing. If located in an environmental justice community, an applicant would be required to prepare a public participation plan, obtain commission approval of the plan, coordinate with local elected officials, and participate in a public hearing conducted by the commission to address issues of environmental justice posed by the facility. The commission would not be able to take action on an application until the 60th day after the date of the environmental justice hearing.	It appears that any entity required to obtain the many different types of authorizations under the chapters listed would be subject to the requirements under the bill. The agency requests further clarification on whether it is the intent of the bill that all authorizations, including general permits, standard permits, permits by rule, etc., many of which do not require notice or individual review, be included. Also, a definition for "facility expansion" could be added to clarify the applicability of the bill. Finally, the commission seeks clarification whether a public hearing held under the requirements of the bill would be subject to Chapter 2001 of the Government Code.	Referred to SNR on 2/17	EL	Brad Patterson
SB 552 (Carona)	Relating to the creation of the Energy Efficiency Coordination Council and to statewide energy efficiency.		Establishes an Energy Efficiency Coordination Council to coordinate and maximize energy efficiency programs in the state. The council would be comprised of 15 members: 11 ex officio members representing various state agencies, councils, and the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A & M University System; two public members appointed by the lieutenant governor; and two public members appointed by the governor at the recommendation of the speaker of the house of representatives. The chairperson of the Texas Commission on Environmental Quality (TCEQ) would be one of the ex officio members of the council. The bill does not appear to provide for a designated representative from the TCEQ to be appointed in place of the chairperson.		Filed 2/8/11	TB	Vincent Meiller

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 572 (Nichols)	Relating to certificates of public convenience and necessity to provide water or sewer utility service.		Changes the requirement for sending mailed notice of a CCN application to landowners from those with a minimum of 25 acres to landowners with a minimum of 10 acres either wholly or partially located in the proposed CCN area. The bill also requires the commission, by rule, to create a form that must be used by the applicant to provide notice to landowners.	The bill authors may want to consider deleting the requirement that the new landowner notice form be adopted by rule. It may be more efficient to create and amend the form if it did not have to be done through rulemaking.	Referred to SNR on 2/17	IJ	Lisa Fuentes
SB 573 (Nichols)	Relating to certificates of public convenience and necessity for water or sewer services.		<p>Deletes the requirement for a motion or petition before the Commission may revoke a CCN.</p> <p>Reduces the acreage requirement for an expedited release from a CCN from 50 acres to 25 acres.</p> <p>Deletes the current petition requirements for an expedited release, other than the requirement that the petitioner not be in a platted subdivision. Shortens the TCEQ's review period from 90 to 60 days and requires the TCEQ to approve all petitions. Adds a limitation that the TCEQ may not deny a petition based on the fact that a CCN holder is a borrower under a federal loan program.</p>	The bill deletes the requirements that a landowner requesting to be released from a CCN first request service from the CCN holder and then demonstrate that an alternate service provider could provide the level and manner of service needed. A landowner with more than 25 acres would be released anytime without cause.	Referred to SNR on 2/17	IJ	Lisa Fuentes

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
<p align="center">SB 617 (Rodriguez)</p>	<p>Relating to a manifest system to record the transportation of certain liquid wastes.</p>		<p>Requires the commission by rule to require a person who generates, collects, conveys, transports, processes, stores, or disposes of municipal sewage sludge, grit trap waste, or grease trap waste to keep records and use a sequentially numbered uniform transportation manifest and to retain copies of the manifests for not less than three years.</p>	<p>See also SB 213 (81R). Consider following the 30 TAC Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste model currently in use, allowing one or more outside parties to produce the Uniform Transportation Manifest in accordance with TCEQ rules and provide them to the regulated community at a minimal cost. This would allow a steady stream of documents to the regulated community as well as minimize the cost to the agency of implementing the program.</p> <p>It is recommended that the language be modified to require uniform manifest requirements relating to the transportation of water treatment sludge, domestic septage, and chemical toilet waste.</p> <p>Consider allowing transporters, municipalities and/or receiving facilities to produce their own manifest (trip ticket) in accordance with TCEQ requirements.</p> <p>Consider allowing the manifest to use a unique numbering system instead of a sequential numbering system. With the estimate of 448,000 per month, the sheer numbers of manifests would create difficulties in how best to number them.</p> <p>Rule deadline.</p>	<p>Referred to SNR on 2/17</p>	<p align="center">JA</p>	<p align="center">Jody Miller</p>
<p align="center">SB 657 (Huffman)</p>	<p>Relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.</p>	<p align="center">HB 2694 (Smith, W)</p>			<p>Filed 3/9/11</p>	<p align="center">TB</p>	<p align="center">Diane Mazuca</p>

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 661 (Nichols)	Relating to the continuation of the Electric Reliability Council of Texas, the Office of Public Utility Counsel, and the Public Utility Commission of Texas and to the transfer of functions from the Texas Commission on Environmental Quality.				Filed 3/9/11	TB	Diane Mazuca
SB 667 (Duncan)	Relating to the management of groundwater resources in this state and the rights of landowners in groundwater.	HB 1731 (Ritter)	<p>The bill finds that the availability and continued use of groundwater resources are vital to the state's interests and welfare, recognizes the significant groundwater ownership interests under the Water Code, and recognizes that the groundwater ownership interests are subject to reasonable regulation through local control as exercised by groundwater conservation districts (GCDs).</p> <p>The bill states the purpose for the creation of GCDs, and emphasizes the importance of GCD management plans and a landowner's right to seek to capture groundwater underlying his property. The bill also states that the preservation and conservation of groundwater resources underlying public and private lands are managed through the powers delegated to GCDs. The bill states that groundwater production limitations shall not prevent a landowner from accessing a reasonable amount of groundwater for domestic or livestock watering use.</p>	None recommended.	Pending SNR 3/1/11	IJ	Kelly Mills
SB 672 (Gallegos)	Relating to measuring, monitoring, and reporting emissions.	HB 1981 (Smith, W)			Referred to SNR on 2/23/11	MH	Lindsey Jones

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 673 (Gallegos)	Relating to the authority of the Texas Commission on Environmental Quality to approve certain supplemental environmental projects undertaken by local governments.		Proposes the addition of language to the Texas Water Code to allow for local governments to apply penalty money assessed by the Commission toward the cost of compliance in the form of a Supplemental Environmental Project (SEP).		Referred to SNR on 2/23/11	MH	Gitanjali Yadav
SB 674 (Gallegos)	Relating to standards for measuring the emission of air contaminants under the Texas Clean Air Act.				Referred to SNR on 2/23/11	JA	Lindsey Jones
SB 675 (Gallegos)	Relating to allowing the Texas Commission on Environmental Quality to impose more stringent conditions for existing air quality permits to avoid a condition of air pollution.		Would amend Texas Health and Safety Code, Section 382.0513, Permit Conditions, by adding new subsection (b) to allow the commission to establish and enforce permit conditions that are more stringent than issued permit conditions for air quality permits if the commission determines that the more stringent conditions are necessary to avoid a condition of air pollution. The bill would allow such action at any time.	If the commission is required to hold a contested case hearing for any permit changes initiated by the commission, express authority would need to be added to the bill. If this authority was added, the same response regarding the SIP in response Number 3 above would apply.	Referred to SNR on 2/23/11	JA	Dom Ruggeri
SB 676 (Gallegos)	Relating to the regulation of toxic hotspots under the Texas Clean Air Act.			See bill analysis.	Referred to SNR on 2/23/11	JA	Lindsey Jones

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 755 (Seliger)	Relating to a priority groundwater management area designation for a water district.		Bill authorizes the Commission to remove certain areas from a priority groundwater management area (PGMA) if the areas have been added to a groundwater conservation district (GCD) or if the Commission has created a GCD for the area. The bill authorizes a GCD and the applicable county commissioners court or courts to request the Executive Director to determine if a PGMA should be removed or amended. Within 180 days of receiving the request, the Executive Director must determine if the GCD has an adopted and approved management plan and has adopted rules to implement the plan. The Executive Director must also determine if the applicable county commissioners court or courts have adopted water availability requirements under the Water Code and if the court or courts agree to waive that authority by the amendment or removal of the subject area from the PGMA. The bill authorizes the Executive Director to petition the Commission and the Commission to remove or amend the PGMA designation. The bill requires the Executive Director to notify the GCD and the applicable county commissioners court or courts of the Commission's decision	None recommended.	Referred to SNR on 2/23/11	IJ	Kelly Mills

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 853 (Watson)	Relating to a restriction on permits authorizing direct discharges of waste or pollutants into water in certain areas associated with the Barton Springs segment of the Edwards Aquifer.		<p>The bill would prohibit the TCEQ from issuing a new permit authorizing the discharge of waste or pollutants, or amend a permit that was issued before September 1, 2011 to authorize an increase in the discharge of waste or pollutants, to waters in the contributing or recharge zone of the Barton Springs segment of the Edwards Aquifer, except where certain conditions are met. These conditions are: (1) that the effluent quality meets primary and secondary drinking water standards; (2) does not have adverse toxic effects on aquatic life or to humans consuming the aquatic life; (3) and does not alter the nutrient concentration in the receiving water during ambient flow conditions.</p> <p>Current wording in the bill appears to eliminate amendments to current permits that would increase effluent volumes even if the discharge meets the conditions described in the bill's definition of "advanced water treatment facility". The bill also specifically states that it does not affect the Commission's authority to authorize discharges of storm and certain non-storm water discharges.</p>	None recommended.	Filed 2/22/11	IJ	David Galindo
SB 875 (Fraser)	Relating to compliance with state and federal environmental permits.	HB 2268 (Hancock)	Would add new TEX. WATER CODE § 7.257. As introduced, Section 1 of the bill would provide an affirmative defense to a nuisance or trespass violation by creating a cross reference to the definition of person, as defined by Section 382.003 of the Health and Safety Code. The affirmative defense requires two prongs: 1) the person must have an authorization and 2) the person is in general compliance with the authorization while the violation occurred or the person received enforcement discretion.		Referred to SNR on 3/1/11	MH	Anna Treadwell

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 1053 (Hinojosa)	Relating to notice of and issuance of a permit for the construction or expansion of a wind-powered electric generation facility located near a federally owned or operated radar installation or military installation.				Filed 3/2/11	JA	Janis Hudson
SB 1134 (Hegar)	Relating to air permitting requirements for certain oil and gas facilities.				Filed 3/3/11	JA	Julie Steger
SB 1146 (Estes)	Relating to programs funded under the Texas emissions reduction plan fund.		The bill would repeal Health and Safety Code, Chapter 387, authorizing the New Technology Research and Development (NTRD) Program. The bill also takes the language from Chapter 387 pertaining to the commission funding air quality research and includes it in a new Section 386.059 as a standalone program. The funding authorization that was previously included under the NTRD Program funding Section 386.252(a)(2) for a health effects study, air quality planning activities, and emissions reduction computation by the Energy Systems Laboratory is also retained by adding those provisions to Section 386.252(a). The funding percentages in Section 386.252 are revised accordingly. A summary of each section of the bill is provided below.	None recommended.	Filed 3/3/11	TB	Steve Dayton

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 1148 (Wentworth)	Relating to the authority of the Texas Commission on Environmental Quality to authorize certain injection wells that transect or terminate in the Edwards Aquifer.		<p>Relates to the authority of the TCEQ to authorize certain injection wells that transect or terminate in the Edwards Aquifer. SECTION 1 of the bill amends Subsection 26.046(a), Water Code, by designating the current definition of "Edwards Aquifer" in subsection (a) as Paragraph (1) and adding new Paragraph (2) stating that "Edwards Aquifer" does not include the saline portion of the Edwards Aquifer as defined by Section 27.051(i), Water Code. SECTION 2 amends Subsection (h), Section 27.051, Water Code, as added by Chapter 966, (SB 2), Acts of the 77th Legislature, Regular Session, 2001, to be redesignated as Subsection (i), to include "water derived from other natural sources" to other waters for which the commission may authorize injection; to add wells as another means through which injection may occur; and to allow the commission by rule to authorize the injection of two additional fluids, "desalination concentrate" or "fresh water as part of an aquifer storage and recovery facility," into a well that transects or terminates in the saline portion of the Edwards Aquifer. Further, SECTION 2 designates the last part of Subsection (i) as new Paragraph (1), and specifies that for purposes of Subsection (i), "Edwards Aquifer" has the meaning assigned by Section 26.046(a) and includes the saline portion of the Edwards Aquifer. SECTION 2 also adds Paragraphs (2) and (3) to define the terms "fresh water" and "saline portion of the Edwards Aquifer." SECTION 3 of the bill provides an effective date of September 1, 2011 for the Act.</p>	<p>It is unclear whether the changes in Section 1 of the bill amending TWC Section 26.046 are necessary to effectuate the bill's changes in 27.051(i). The exclusion of the "saline portion" of the Edwards Aquifer in Section 26.046 could have the effect of removing the applicability of the TCEQ's Edwards Aquifer Protection Program in 30 TAC Chapter 213 to the "saline portion" of the Edwards Aquifer for activities unrelated to injection wells.</p> <p>In Section 2 of the bill, the term "water derived from natural sources" in amended TWC 27.051(i) is vague. It is not clear what sources of water are not derived from natural sources.</p> <p>Section 2 of the bill also addresses well injection of storm water into the Edwards Aquifer. Collected storm water may contain contaminants and may be a source of pollution. No injection well may be authorized by rule or permit that causes the movement of fluid what would result in the pollution of an underground source of drinking water. This protection is required to maintain an authorized state program under the federal Safe Drinking Water Act.</p> <p>Section 2 of the bill addresses authorization by rule for injection of desalination concentrate into wells that transect the saline portion of the Edwards Aquifer. Under state and federal injection well requirements, a Class I injection well is a well that injects waste beneath the lower-most formation which within ¼ mile of the wellbore contains and underground source of drinking water. State and federal rules require Class I injection wells to be authorized by a permit and not by rule authorization. Clarification is recommended to address whether rule authorization is intended for Class I injection wells that transect the saline portion of the Edwards Aquifer.</p> <p>Section 2 of the bill defines "fresh water" as used in subsection 27.051(i) to mean water that is "otherwise suitable as a source of drinking water supply."</p>	Filed 3/3/11	IJ	Devane Clarke

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 1258 (Duncan)	Relating to the disposal of demolition waste from abandoned or nuisance buildings in certain areas.	HB 2013 (Hardcastle)	<p>This bill would enable certain counties or municipalities to dispose of, on land that the county or municipality owns or controls and that meets arid exemption (AE) requirements, demolition waste from buildings that are abandoned or found to be a nuisance. The bill specifies that the county or municipality population would be 10,000 or less.</p> <p>The bill would allow the commission the option to authorize this activity and facility via permit by rule. The bill would also enable the commission to adopt rules to control waste management activities and facility operations relating to this disposal activity to protect public and private property, right of way, groundwater, and other rights that require protection.</p>	<p>The author may wish to clarify the applicability of language in Section 361.126(a). As written it is unclear whether the author intends for the bill to apply to both counties and municipalities with a population of 10,000 or less, or whether the intent is it to apply only to counties with a population of 10,000 or less or municipalities located in counties with a population of 10,000 or less. If the later is the intent, the commission recommends the language in Section 361.126(a) be changed to read “The commission may issue a permit by rule to authorize the governing body of a county with a population of 10,000 or less or of a municipality located within a county with a population of 10,000 or less to dispose of demolition waste...”</p> <p>In addition, it is suggested that language be added to the bill to address term limits from the date the facility commences operations to assure owners/operators of arid exempt landfills that the intent of the bill is not to create a competitive environment that would significantly impact their business.</p>	Filed 3/8/11	MH	Lynn Bell

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 1471 (Hinojosa)	Relating to land reclamation projects using tires.	HB 3405 (Chisum)	Proposes to make changes to the application procedure for Land Reclamation Projects Using Tires (LRPUT). The definition of "land reclamation" now includes returning land that has "deteriorated" to its approximate natural grade, whereas before the borrow area, hole, or disturbed land must have been excavated for another purpose before the project. The bill would allow the Commission to grant an exception to allow for the burial of whole tires in a LRPUT. The bill would require applicants to mail a copy of the application to the commissioners court of each county in which the proposed project is located in addition to the existing notice requirements in 30 TAC § 328.66. The Commission would not be allowed to grant a permit for a LRPUT before receiving comments or suggestions from the governing body of any municipality in the corporate limits or extraterritorial jurisdiction of which the proposed project is located; the commissioners court of each county in which the proposed project is located; each groundwater conservation district; and each regional planning commission, council of governments, or similar regional planning agency; or the earlier of: 1) the 61st day after the date the application to request a permit for the project is submitted to the commission; or 2) the day following the first date the commissioners court of each county in which the proposed project is located has conducted two regularly scheduled meetings following the date the application was submitted to the commission. This provision appears to mean that the commission would not need to wait for comments from local governments if the time	The application process for LRPUTs currently averages 18 months to complete. The bill would increase the authorization level to a permit subject to the opportunity for a contested case hearing, which would be expected to extend the application process at least a year if an application is challenged. The author may wish to consider to limit the prohibition on TCEQ granting a permit if notice was received that the proposed project violates a local regulation, ordinance, order, or other law in the area in which the proposed project is located to only regulations, ordinances, orders, or laws that effect human health and the environment. In addition, the TCEQ recommends that the bill language be modified to limit the notice to only the local government with jurisdiction to enforce those requirements.	Filed 3/10/11	JA	Brooke Jackson
SB 1504 (Seliger)	Relating to the disposal of nonparty compact low-level radioactive waste at the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.				Filed 3/10/11	TB	Devane Clarke
SB 1515 (Deuell)	Relating to motor vehicle inspections that employ remote sensing equipment.	HB 2639 (Chisum)			Filed 3/10/11	JA	Morris Brown

Key Bills - 82nd Legislature

Bill (Author)	Caption	Companion (Author)	Summary	Considerations	Last action	IGR Liaison	Bill Coordinator
SB 1520 (Uresti)	Relating to the consideration of applications for permits for certain commercial solid waste processing or treatment facilities.				Filed 3/10/11	JA	Lynn Bell
SB 1584 (Ogden)	Relating to state fiscal matters related to natural resources and the environment.	HB 3418 (Darby)			Filed 3/11/11	TB	Greg Yturralde
SB 1605 (Seliger)	Relating to the Texas Low-Level Radioactive Waste Disposal Compact Commission.				Filed 3/11/11	TB	Devane Clarke
SB 1715 (Duncan)	Relating to regulation of the management and disposal of certain drinking water treatment residuals through underground injection.	HB 3412 (Darby)			Filed 3/11/11	IJ	Devane Clarke
SCR 20 (Fraser)	Urging the United States Congress to prevent the Environmental Protection Agency from regulating greenhouse gases for stationary sources.				Referred to SNR 2/28/11	MH	Kathy Pendleton