

Federal Environmental Law and Regulation Update

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PRESENTED BY

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The Current Federal Legal and Regulatory Context

- The Executive Branch
 - Election year turnover
- Congress
 - Active Lame Duck Session – Watch Spending Bill
- The Judiciary
 - Current and anticipated vacancies
- Implications for Cities
 - Uncertainty and opportunity
 - Need for Continued Local Involvement at the Federal Level

Overview

Key Environmental Laws and Regulations

- Water
- Air
- Land

Water and Wastewater

- Clean Water Rule Update
- Wastewater: Conduit Theory Litigation, WET testing
- Water Systems: Funding Bills
- NPDES Rulemaking

Clean Water Rule

- Final Clean Water Rule Issued by EPA and ACOE on May 26, 2015
- Active Legal Challenges in 6th and 11th Circuits
- Congressional Attempts to Block Implementation
- Implications
 - Active implementation despite stay?
 - Hawkes decision

Water and Wastewater

Wastewater

- “Conduit Theory” Litigation
 - The NPDES permitting program applies to discharges to waters of the United States
- WET Testing

Water

- Bills responding to current events:
 - Zika
 - Lead

Water and Wastewater Funding

- **Water Resources Development Act (HR 5303)**
 - Proposes feasibility studies for 6 projects in Texas:
 - Flood damage reduction projects in Brazos River, Fort Bend County, City of El Paso
 - Navigation projects in Corpus Christi Ship Channel, Port of Bay City
 - Navigation and hurricane and storm damage reduction in Gulf Intracoastal Waterway, Brazoria and Matagorda Counties
 - Flood damage reduction, ecosystem restoration, and recreation, Chacon Creek, Laredo.
 - Status
- **North American Energy Security and Infrastructure Act of 2015 (HR 8)**
 - awards grants to entities to demonstrate advanced and innovative technology-based solutions that will increase and improve the energy efficiency of water, wastewater, and water reuse systems
 - Status

NPDES Rulemaking

- Phase II “Remand Rule”
 - Three Options:
 - Traditional Approach – loss of local control
 - Procedural Approach – current approach
 - Hybrid Approach – permitting agency elects
 - Final Rule should issue by Nov. 17, 2016
- Applications and Program Updates

Air Quality

- Clean Power Plan Rule
 - Goals: 34% reduction 2020-2029 and 39% reduction 2030.
 - Litigation: Supreme Court issued stay; decision expected from D.C. Circuit in 2017.
- Accidental Release Prevention Regulations

Land and Species

- Lesser Prairie Chicken
 - Listed as threatened in 2014.
 - Listing did not follow Fish and Wildlife policy
 - Service abandoned appeal
- Critical Habitat Designation
 - “Destruction or adverse modification”
 - Critical habitat designation
 - Policy

Questions

Thank you for attending.

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