

**ENVIRONMENTAL ALERT**  
**November 2, 2009**

**Energy Generating Facility Emissions Reduction Act**

On August 21, 2009, the President of the Puerto Rico Senate filed Senate Bill 1061, known as the Energy Generating Facility Emissions Reduction Act (“SB 1061”). The bill is intended to require large “electricity generating facilities” in Puerto Rico to comply with certain mandatory sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) emission reduction standards.

The term “electric generating facility” is proposed to include both: (i) an individual stationary source with a nameplate capacity equal to or greater than 2 megawatts per hour; and (ii) any combination of stationary sources with an aggregate generation capacity greater than 2 megawatts per hour. Noticeably, SB 1061 would exclude natural gas combustion facilities from complying with the mandatory emissions reduction standards.

As currently drafted, SB 1061 would order the Environmental Quality Board (“EQB”) to require certain fossil fuel combustion based electricity generating facilities to commence implementing measures capable of achieving SO<sub>2</sub> and NO<sub>x</sub> emission reductions of 25% over the 5-year period following the approval of their air emissions permit or renewal applications. Additionally, SB 1061 would allow electric generating facilities that consume fossil fuel with sulfur content below 0.0015% to comply with reduced emissions reduction standard, and would require these to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions by only 10% over the same 5-year period. SB 1061 would instruct the EQB to impose these emissions reduction requirements within 30 days following the bill’s enactment into law.

Finally, SB 1061 would authorize the EQB to impose administrative fines on any person that fails to comply with the mandatory SO<sub>2</sub> and NO<sub>x</sub> emissions reduction standards. Fines can be imposed after notice and opportunity for an administrative hearing. Note that the imposition of fines pursuant to SB 1061, if enacted, would not preclude the imposition of other fines relating to noncompliance with the Puerto Rico Environmental Public Policy Act.

An initial hearing was held on October 20, 2009, by the Senate’s Urbanism and Infrastructure Commission. Another public hearing to discuss SB 1061 is scheduled for Friday, November 6, 2009, at 9:00 am, in the Roberto Rexach Benítez conference room of the Puerto Rico Senate.

If you have any question, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our Environmental, Energy and Land Use Practice Group.

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