



Texas v. EPA: Procedural Lessons Learned

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Where to File - State

- Rule Challenges may be brought only in a Travis County district court. Texas Government Code § 2001.038.

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Where to File - State

- Suits for Judicial Review must be filed in Travis County unless otherwise provided by statute. Texas Government Code § 2001.176



Where to File - Federal

Federal

- Clean Air Act, 42 U.S.C. § 7607(b), CAA § 307. File in the circuit court BUT you have to decide which one.



Where to File - Federal

- Clean Water Act, 33 U.S.C. § 1369, FWPCA § 509. File in circuit court if your matter falls is one of those listed in the statute. Otherwise, you default to the federal APA and file in a district court of competent jurisdiction.

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Where to File - Federal

- Making this decision is not always easy. For an example, see *In re U.S. Department of Defense and U.S. EPA Final Rule: Clean Water Rule: Definition of "Waters of the United States"* 80 Fed. Reg. 37,054 (June 29, 2015), 817 F3d 261 (6th Cir. 2016) ("WOTUS").

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