

In This Issue:

- TCEQ Updates
- HRVOC (Highly Reactive VOC) Updates
- EPA Updates
- MACT Updates
- Friendly Reminders

TCEQ Updates

Proposed Changes for NSR Permitting On September 30, TCEQ proposed changes to NSR permitting rules for determining whether federal new source review (nonattainment review or PSD review) is required. The changes include Plant-wide Applicability Limits (PAL) and "actual to projected actual" tests. Under the proposal, if an increase in emissions due to operational or physical changes at a facility covered by a PAL would not exceed the PAL, the increase would be insignificant for the purpose of federal new source review. Also under this proposal, "actual to projected actual" emissions rate tests could be used instead of actual to potential tests. In this test, the source would be allowed to remove from the project increase, any emissions increase that could have been accommodated in the baseline period. These emissions must be unrelated to the project and may include demand growth.

BPA RACT Update Effective October 20, the exemption level for VOC emissions from batch process operations and shipbuilding and repair operations was reduced from 100 TPY to 50 TPY.

Effects Screening Levels (ESL) The final report of the peer review meeting on development of effects screening levels for the TCEQ has been posted at http://www.tceq.state.tx.us/implementation/tox/esl/peer_rev/PRmain.html

HRVOC Updates

TCEQ has delayed enforcement of the compliance dates for the HRVOC requirements in §115.729(a) and §115.769(a). This delay of 30 days is being provided as a result of facility shutdowns that were

done due to the projected landfall of Hurricane Rita and the governor's proclamation of an imminent threat of disaster which suspended all rules and regulations that might have inhibited or prevented a prompt response to the threat. Enforcement of the December 31, 2005 compliance date in these rules will be delayed by 30 days, with the exception of §§115.729(a)(1)-(3) and (b) and §§115.769(a)(1)-(3) and (b), for which no extension is being provided. http://www.tceq.com/comm_exec/hrvoc_ext.html

EPA Updates

Emission Increase Determination Method In the October 20 Federal Register, EPA proposed to revise the emissions tests used in NSR to determine if a physical or operational change would cause emission increases at existing electric generating units (EGUs) that are subject to the Prevention of Significant Deterioration (PSD) and nonattainment major New Source Review (NSR) programs. Under the proposal, maximum hourly emissions achievable at a unit during the past 5 years would be compared to maximum hourly emissions achievable at that unit after the change to determine whether an emissions increase would occur. EPA also solicited comment on three alternatives. Comments must be received by December 19, 2005. For further details see: <http://www.epa.gov/fedrgstr/EPA-AIR/2005/October/Day-20/a20983.pdf>

Release Reporting In the October 4 Federal Register, EPA proposed an administrative reporting exemption for a release of less than 1,000 pounds of nitrogen oxide and nitrogen dioxide (or collectively "NO_x") to the air in 24 hours that is the result of combustion activities, unless such release is the result of an accident or malfunction. Notifications must still be made for accidents or malfunctions that result in the release of NO_x at the final RQ of 10 pounds or more per 24 hours. Comments are due by December 5, 2005. <http://www.epa.gov/fedrgstr/EPA-WASTE/2005/October/Day-04/f19872.pdf>

TRI Reporting EPA has also proposed revisions to the Toxic Release Inventory (TRI) program that would increase eligibility for the Form A Certification

Statement for non-Persistent Bioaccumulative and Toxic (PBT) chemicals by raising the eligibility threshold to 5000 pounds for the "annual reportable amount" of a toxic chemical. Comments are due by December 5, 2005. <http://www.epa.gov/fedrgstr/EPA-WASTE/2005/October/Day-04/f19710.pdf>

New Air Dispersion Model On November 9, 2005, EPA revised its *Guideline on Air Quality Models* to recommend the air dispersion model AERMOD. The revisions are effective December 9, 2005. Beginning November 9, 2006, AERMOD should be used as a replacement for ISC3. During the one-year period from November 9, 2005 to November 9, 2006, protocols for modeling based on ISC3 may still be approved at the discretion of the reviewing authority.

Landowner Liability Protections On November 1, EPA published a final rule establishing federal standards and practices for conducting all appropriate inquiries into the previous ownership and uses of a property in order to qualify for certain landowner liability protections under CERCLA. <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-21455.pdf> .

MACT Updates

Hazardous Waste Combustors (HWCs) EPA published Phase I Final Replacement standards and Phase II HWC rules on October 12, 2005 with an effective date of December 12, 2005. <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-18824.pdf>

MACT FFFF (MON) On October 26, EPA published notice of a proposed settlement agreement for the Miscellaneous Organic Chemical Manufacturing NESHAP category (also known as the Miscellaneous Organic NESHAP or MON). Under the proposed agreement: (1) On or before November 30, 2005, the EPA Administrator will sign a notice of proposed rulemaking to amend the MON as provided in Attachment A to the agreement; (2) As part of the proposed amendments to the MON, EPA will include language in the preamble as provided in Attachment B to the agreement; (3) Within 30 days of the date the comment period on the proposed amendments

closes, EPA will take final action on the proposed 18 month compliance extension; and (4) Within 150 days of the date the comment period on the proposed amendments closes, EPA will sign a notice of final rulemaking. Comments on the proposed agreement must be received by November 25, 2005. <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-21368.htm>

MACT DDDDD On October 31, 2005, EPA proposed amendments to MACT DDDDD for Industrial, Commercial, and Institutional Boilers and Process Heaters. The amendments will allow for consolidated testing of commonly vented existing solid fuel boilers under the emission averaging provision and will clarify some applicability and implementation issues. <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-21531.pdf>

MACT EEEE EPA has proposed amendments to MACT EEEE (the Organics Liquid Distribution or OLD MACT rule) to clarify the applicability and control requirements for storage tanks and transfer racks, and to amend the recordkeeping and reporting requirements for affected sources for which there are no control requirements. Comments are due by December 29, 2005. <http://www.epa.gov/fedrgstr/EPA-AIR/2005/November/Day-14/a22108.pdf>

MACT LL Effective November 2, EPA amended the MACT rule for primary aluminum reduction plants to revise the emission limit for polycyclic organic matter (POM) for one potline subcategory and to make other changes to reduce compliance uncertainties and improve understanding of the rule. For details see <http://www.epa.gov/fedrgstr/EPA-AIR/2005/November/Day-02/a21840.pdf> .

Residual Risk Assessment On October 24, EPA published proposed rules indicating that it had concluded its residual risk assessment and that it was proposing no further action to revise the 40 CFR Part 63 rules for Cooling Towers (Subpart Q), Magnetic Tape Manufacturing (Subpart EE), and Ethylene Oxide Sterilizers (Subpart O). These proposed actions also request public comments on the residual risk reviews and technology reviews.

Friendly Reminders

- At sites subject to Highly Reactive VOC (HRVOC) fugitive monitoring rules, conduct the initial independent third-party audit for HRVOC fugitive emissions components and submit the results to TCEQ by December 31, 2005. Also, at least 30 days prior to the start of the audit, provide verbal notification to the TCEQ Houston regional office and any local air pollution control agency having jurisdiction of the start date for the third-party audit.
- Conduct a performance test for Ethylene Production sources subject to MACT YY by January 8, 2006.
- At sites subject to HRVOC rules, demonstrate compliance with the requirements of Chapter 115, Subchapter H, Division 1 (for vent gas control) and Division 2 (for cooling tower heat exchange systems) by January 30, 2006. These requirements include the following: (1) Prepare a Quality Assurance Plant (QAP) for monitoring cooling water, flares, vent gas streams and pressure relief valves and (2) Implement Flare and Cooling Tower Heat Exchange System monitoring. Note that this deadline includes the 30-day extension provided by TCEQ as a result of plant shutdowns that were done in preparation for Hurricane Rita.
http://www.tceq.com/comm_exec/hrvoc_ext.html
- Submit the biennial report for used oil recycling by January 25, 2006. However, the report is due by December 1, 2005 if all used oil operations for 2005 were completed by that date.
- By January 25, 2006, submit the Annual Waste Summary if submitting the summary on paper forms. (If submitting electronically, the summary is due by March 1, 2006. Generators of at least 1000 kg of hazardous waste in any month must submit electronically.)

- By January 30, 2006, ECT-2 Forms involving the transfer of allowances needed for compliance with the 2005 control period must be submitted.
- Also by January 30, 2005, for the BPA and DFW nonattainment areas, report excess emissions, periods during which monitoring systems were inoperative, and for engines, air-fuel ratio monitoring system performance.

CORRECTION: NSR for Eight-Hour Ozone

Standard In the July Regulatory Update, the major source thresholds for VOC and NO_x (as ozone precursors) in moderate nonattainment areas should have been listed as 100 TPY for a major source and 40 TPY for a major modification.