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TCEQ Updates

Pre-Permit Construction (Senate Bill 1740) and Standard Permit Distance Limitations

– The TCEQ withdrew proposed changes to §116 concerning starting construction prior to permit (or amendment) issuance based on adverse comments from EPA.

The changes to modify the distance limits in standard permit requirements were approved without change (§116.615.) and are effective March 15, 2007.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/05052116_ado_clean.pdf

Electronic Reporting – The adopted changes to §19 to establish a system for electronic submittal of reports, permit applications, and other specified documents are effective March 15, 2007. The same level of enforcement as for failure to submit written documents will apply if the electronic submittal does not comply with the rules.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/06018019_ado_clean.pdf

Electronic Management System – The TCEQ adopted changes to §90 to be effective February 15, 2007. The TCEQ will recognize any established EMS framework that meets the statutory provisions of the Texas Water Code instead of only allowing those which met a TCEQ EMS standard. Additionally, the TCEQ will no longer conduct audits as part of the approval process. The program is now referred to as Clean Texas.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/06028090_ado_clean.pdf

Stage II Fuel Dispensing Vapor Recovery Requirements

– On January 10, 2007 the TCEQ proposed an exemption from the §115.247 fuel dispensing vapor recovery requirements when the vehicle has onboard refueling vapor recovery equipment.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/06049115_pro.pdf

RCRA Authorization – The TCEQ proposed changes to §305 and §335 to incorporate federal rule changes.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/06032305_pro_clean.pdf

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/06032335_pro_clean.pdf

30 TAC Chapter 101 Proposed Changes - The TCEQ proposed changes to §101 to remove obsolete language, update citation references, and update definitions to coincide with the recent changes proposed to §117.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/06053101_pro_clean.pdf

MSS Questions/Answers – The TCEQ compiled the responses to questions brought up in the September 2006 Advanced Air Permitting Seminar. The responses should be treated as guidance. Final determination may differ.

http://www.tceq.state.tx.us/permitting/air/mss_response_seminar_2019577.pdf

Additionally, the TCEQ developed a draft policy concerning including MSS emissions (even those authorized by Permit by Rule (PBR)) into air permits. Provide comments/questions to Anne Inman at ainman@tceq.state.tx.us through April 20, 2007.

TCEQ Grant Funds for Clean Air Projects - The TCEQ has approximately \$60 million in grants now available for Emission Reduction Incentive Grants (ERIG) projects which include high-emitting internal combustion engines in nonattainment areas and affected counties.

http://www.tceq.state.tx.us/comm_exec/communication/media/04-07TERPgrants.html

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EPA Updates

Nonattainment New Source Review (NSR) – The EPA adopted revisions to the regulations governing the nonattainment new source review program. The revisions change preconstruction review requirements for sources in a nonattainment area which are in the interim period between designation of new nonattainment areas and adoption of a revised State Implementation Plan.

<http://www.epa.gov/fedrgstr/EPA-AIR/2007/March/Day-08/a3888.pdf>

NSPS Subpart EEEE – Other Solid Waste Incineration Units (OSWI) - EPA denied the request for reconsideration on whether sewage sludge incinerators should be excluded from the OSWI rules.

<http://www.epa.gov/fedrgstr/EPA-AIR/2007/January/Day-22/a820.pdf>

NSPS Subparts D, Da, Db, and Dc – Electric Utility and Steam Generating Units - In response to requests for reconsideration, EPA proposed changes to these NSPS Subparts to clarify the intent for applying and implementing specific rule requirements and to correct unintentional technical omissions and editorial errors.

Under NSPS Subpart D companies may elect to comply with the 30-day average NO_x and SO₂ standards in subpart Da. The company would not be able to switch back to the 3-hr average standards.

A CEMS for particulate matter will be an option under NSPS Subpart Da. Operating a CO CEMS during oil firing on an NSPS Subpart Da unit would change the CO action level (0.15 lb/MM Btu). Also under NSPS Subpart Da the applicability is clarified to include the integrated gasification combined cycle units.

For NSPS Subpart Db the PM emission standard would not apply to units firing natural gas and coke oven gas. Additionally EPA proposes to simplify the process for granting site-specific NO_x limits.

EPA proposed to allow the NSPS Dc PM emission standard exemption to apply to units which fire natural gas or low sulfur oil.

http://www.epa.gov/ttn/oarpg/t3/fr_notices/boiler_nsps013107.pdf

VOC Definition – On January 18, 2007 EPA revised the definition of VOC to add a fluorocarbon known as HFE-7300 or L-14787 to the excluded compounds list. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/January/Day-18/a638.pdf>

AERMOD – On January 26, 2007 EPA released an updated version of the AERMOD model (version 07026). http://www.epa.gov/ttn/scram/dispersion_prefrec.htm#aermod

Phase II Mobile Source Air Toxics Rule - EPA finalized standards on the average benzene content to be 0.62% by volume for gasoline beginning in 2011. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/February/Day-26/a2667a.pdf>

Changes on Treatment of Air Quality Data with respect to NAAQS - March 8, 2007 EPA adopted a rule addressing how the regulating entities (i.e. state, local, and tribal air quality agencies) may handle air quality monitoring data influenced by exceptional events. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable. The air quality monitoring data may be excluded from comparison to National Ambient Air Quality Standards when influenced by an exceptional event such as unplanned fires and destructive storms.

http://www.epa.gov/ttn/oarpg/t1/fr_notices/exeventfr.pdf

El Paso's NonAttainment Designation for CO – In January 2007 EPA approved the redesignation of the El Paso area from nonattainment to attainment for CO. However, because of a timely adverse comment the EPA has withdrawn the approval.

<http://www.epa.gov/fedrgstr/EPA-AIR/2007/March/Day-26/a5482.pdf>

Public Comment on HAP Data – The EPA seeks public comments on HAP data which the EPA intends to use to assess residual risk from existing MACT regulations on selected major source categories, such as marine vessel loading, oil & gas transmission/storage and production, and petroleum refineries. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/March/Day-29/a5805.pdf>

MACT Updates

National Emission Standards for Hazardous Air Pollutants: General - EPA is announcing that the comment period on the proposed amendments to the General Provisions of the National Emission Standards for Hazardous Air Pollutants published on January 3, 2007, is being extended until May 4, 2007. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/March/Day-05/a3758.pdf>

Shipbuilding and Ship Repair (Surface Coating) Operations MACT: - Because EPA received adverse comments, the direct final rule published on December 29, 2006 for the Shipbuilding and Ship Repair (Surface Coating) Operations MACT is being withdrawn. They are reopening the public comment period for 60 days to facilitate the collection and submission of data by affected sources, which will assist EPA in determining the appropriate course of action for addressing surface coating operations that are the subject of the direct final rule amendments. Written comments must be received on or before April 30, 2007. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/February/Day-27/a3311.pdf>

PVC, Copolymers, Primary & Secondary Copper Smelting and Primary Nonferrous Metals MACT (MACT DDDDDD, EEEEE, FFFFF, and GGGGG) - January 23, 2007 EPA promulgated the MACT for four area source categories. Non-major sources which fit in one of these four categories will be subject to emission limits and work practice standards which reflect generally available control technologies (GACT). SSM and pre-construction notification requirements are not included.

40 CFR 61 Subparts F and V apply to PVC and copolymer producers. The standards for primary copper smelting facilities are separated for existing sources using batch converting technologies and those facilities not using such technologies (including new facilities). Particulate matter is the surrogate pollutant for the three smelting facilities (primary copper, secondary copper and primary nonferrous metals) instead of metal HAP. Existing secondary copper smelters are not included in the standards. <http://www.epa.gov/fedrgstr/EPA-AIR/2007/January/Day-23/a532.pdf>

Reminders

MACT PPPP – Plastic Parts Coating existing source compliance due date and performance test for existing sources is **4/19/2007**.

MACT EEEEE – Iron/Steel Foundries existing source compliance due date is **4/23/2007**.

MACT IIII – Surface Coating of Automobiles and Light Duty Trucks existing source compliance due date and performance test for existing sources is **4/26/2007**.

MACT HHHHH – Misc. Coating Manufacturing notice of compliance status is due **5/10/2007**.

MACT WWWW – Reinforced Plastic Composites Manufacturing notice of compliance status is due **5/21/2007**.

MACT ZZZZ – Reciprocating Internal Combustion Engines existing source compliance due date is **6/15/2007**.

MACT MMMM – Misc. Metal Coating existing source performance test for existing sources is **7/1/2007**.

Submit MACT semi-annual compliance reports **7/31/2007** unless alternative dates are defined in SOP permit.

Supreme Court Ruling

The Supreme Court unanimously ruled against Duke Energy on an earlier ruling by the 4th U.S. Circuit Court of Appeals. The lower court agreed with Duke Energy's defense that the trigger for federal NSR applicability is based on hourly emissions increase. The Supreme Court decided that this position was not supported in the federal NSR rules. Determination of what constitutes a routine repair and replacement activity was not part of the Supreme Court case. The case is expected to continue in the lower courts.