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**TCEQ Updates****Severe Nonattainment Area Fee Stakeholder Meeting**

- On March 4, 2009, the TCEQ held a stakeholder's meeting in Houston, Texas concerning the penalty required by Section 185 of the Federal Clean Air Act if an area fails to attain the National Ambient Air Quality Standard (NAAQS) by the set attainment date. Major sources in the Houston-Galveston-Brazoria areas are affected. The required penalty is \$5,000 per ton, as adjusted by the consumer price index, of volatile organic compounds (VOC) or nitrogen oxides (NO<sub>x</sub>) emitted in excess of 80 percent of the stationary source's baseline emissions. The baseline may be calculated as the lower of the average actual or average allowable emissions. Emissions-based alternatives to the fee-based rule will be considered.

Stakeholders commented during the meeting with most concerns focused on how to establish the baseline, which directly affects the penalty amount. Flexibility and aggregation for the fee-based program was supported by several commenters. The TCEQ staff noted at the closing of the meeting that draft rules will be forthcoming with an opportunity for comments.

<http://www.tceq.state.tx.us/assets/public/implementation/air/ie/pseiforms/min030409.pdf>

**One-Hour Ozone Standard** – The TCEQ proposal to update 30 TAC 101 and 116 has been delayed. The changes would make it clear that sources in 1-hr ozone nonattainment areas are subject to the major modification threshold levels and offsets.

<http://www.tceq.state.tx.us/rules/pendprop.html>

**Eight-Hour Ozone Standard** - On March 10, 2009 Governor Rick Perry recommended to the EPA new areas in Texas which should be designated in nonattainment with the federal eight-hour ozone standard. The areas include Austin, Beaumont-Port Arthur, Dallas-Fort Worth, El Paso, Houston-Galveston-Brazoria, San Antonio, and Tyler. New counties for these areas are: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

[http://www.tceq.state.tx.us/assets/public/implementation/air/rules/eight\\_our/gov\\_letter\\_031009.pdf](http://www.tceq.state.tx.us/assets/public/implementation/air/rules/eight_our/gov_letter_031009.pdf)

**Alternative Output-Based Monitoring Option for Engines and Turbines in the BPA and HGB Ozone Nonattainment Areas** – The TCEQ adopted changes to 30 TAC 117 to allow for an output-based alternative for emissions monitoring and reporting for stationary engines and gas turbines in the Houston-Galveston-Brazoria area.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/08008117\\_ado\\_clean.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/08008117_ado_clean.pdf)

**Repeal of Permits By Rule (PBRs)** - The TCEQ adopted the repeal of nine PBRs listed under §§106.101, 106.103, 106.121, 106.123, 106.228, 106.282, 106.291, 106.312, and 106.413, since they are currently listed as De Minimis Facilities or Sources under §116.119.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/08029106\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08029106_pro.pdf)

**Flare and Leak Detection Stakeholder Meetings**

- The TCEQ is holding stakeholder meetings March 30<sup>th</sup> and April 2<sup>nd</sup>. The TCEQ is receiving written comments until April 6, 2009.

[http://www.tceq.state.tx.us/implementation/air/rules/flare\\_stakeholder.html](http://www.tceq.state.tx.us/implementation/air/rules/flare_stakeholder.html)

[http://www.tceq.state.tx.us/compliance/field\\_ops/stakeholders/leakdetection.html](http://www.tceq.state.tx.us/compliance/field_ops/stakeholders/leakdetection.html)

**Remediation of Leaking Petroleum Storage Tank Sites**

- The TCEQ adopted the changes to remove the language requiring the use of Chapter 350 for discovered release compliance and reinstate the use of Chapter 334, specifically §§334.78-334.81.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/09003334\\_ado\\_clean.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/09003334_ado_clean.pdf)

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/09003350\\_ado\\_clean.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/09003350_ado_clean.pdf)

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**TCEQ Trade Fair** - The Trade Fair is scheduled this year for May 12<sup>th</sup> - 14<sup>th</sup>. Early registration ends April 13, 2009. <http://www.tceq.state.tx.us/assistance/events/etfc/etf.html>

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## **EPA Updates**

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**Operating Permits Program and Flexible Air Permitting** - EPA is updating 40 CFR Parts 70 and 71 to address alternative operating scenario (AOS) and approved replicable methodology (ARM). There are no changes to the existing minor or major New Source Review (NSR) regulations (40 CFR Parts 51 and 52). Instead, EPA encourages the states to use the flexibilities currently available in the NSR program. A Flexible Air Permit (FAP) contains one or more approaches that allow the source, under protection of the permit shield, to make certain types or categories of physical and/or operational changes without further review or approval of the individual changes by the permitting authority as they subsequently occur. Flexible air permit approaches, as discussed in this notice, include advance approvals of minor NSR, AOSs, and ARMs. <http://www.epa.gov/nsr/documents/20090113flex.pdf>

**PSD Aggregation and Netting Final Rule** - In January 2009 the EPA approved the "Aggregation" portion of the September 2006 proposed rule. The debottlenecking proposal was withdrawn and no action was taken on the project netting proposal where emission reductions may have been included in the net effect of the "project" emission changes.

In March 2009 the EPA delayed the effective date of the amendment until May 18, 2009. This will allow EPA time to conduct a reconsideration proceeding for reconsideration of the rule on aggregation under the PSD and Nonattainment New Source Review programs.

"Aggregation" refers to combining substantially related projects to determine if the emissions in the aggregation totals to more than the major threshold level. Substantially related projects should have a connection technically or economically. The relationship between the two projects (or activities) should be one of interrelationship, interdependent or have a complimentary relationship. The timing of projects is not a sole criteria for determining the

project relationships but is taken into account. When activities have been in operation 3 to 4 years or more the relationship is less likely than if two projects occurred within a year of each other.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/January/Day-15/a815.pdf>  
<http://www.epa.gov/fedrgstr/EPA-AIR/2009/January/Day-15/a816.pdf>  
<http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-18/a5996.pdf>

**Prevention of Significant Deterioration (PSD) Program and Carbon Dioxide** - EPA is reviewing the interpretive memo issued December 2008 which stated that the PSD program did not apply to carbon dioxide. EPA will seek comment from the general public on this memo.

**8-Hour Ozone NAAQS** - EPA will hold a public hearing on the proposed rule which implements the 8-hour ozone NAAQS and addresses contingency measures for failure to attain the 1-hour ozone standard.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/February/Day-12/a3051.pdf>

**PM<sub>2.5</sub> (Fine Particulate Matter) NAAQS** - A federal appeals court sent the rule that set national pollution standards for fine particulate matter (PM 2.5) back to the EPA for review because the annual was not reduced to the level recommended by staff and advisers, 13 to 14 micrograms. Additionally, the court also sent EPA's secondary standard for soot back to the agency for reconsideration.

In February 2009 EPA made two documents on PM NAAQS available for public review. These documents describe EPA's planned approach for developing quantitative analyses as part of the review of the NAAQS for PM. Comments should be submitted on or before May 18, 2009.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-18/a5843.pdf>

**Nationwide Reporting of Greenhouse Gases (GHG)** - EPA proposed a rule that will require suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities which emit 25,000 metric tons or more per year of GHG emissions to submit annual reports to EPA. The gases covered by the proposed rule are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF<sub>6</sub>), and other fluorinated gases including nitrogen trifluoride (NF<sub>3</sub>) and hydro-fluorinated ethers (HFE).

<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>

**First External Review Draft Integrated Science Assessment for Carbon Monoxide (EPA/600/R-09/019)** - EPA seeks comments on the draft document for the assessment of CO NAAQS. Comments should be submitted by May 8, 2009. Access the report through the website. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-12/a5201.pdf>

**Sulfur Oxides NAAQS Review Panel** - EPA will hold a public meeting April 16, 2009 to conduct a peer review of the EPA's Risk and Exposure Assessment to Support the Review of the SO<sub>2</sub> Primary NAAQS: Second Draft. Written comments are accepted. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-18/a5870.pdf>

**Texas State Implementation Plan (SIP)** - EPA proposed to approve portions of three different revisions to the SIP. The revisions are for: 1) changes and new sections to 30 TAC §§106 and 116 (Permits by Rule and New Source Review (NSR)), 2) replacement of the permit renewal fee, 3) increases of the NSR permit fee determination, and 4) emission reduction clarification that emission reductions must be certified and banked in order to be creditable as an offset in the NSR permit program.

These revisions were submitted by the TCEQ on July 22, 1998, October 4, 2002, and September 25, 2003. Comments must be received on or before April 20, 2009. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-20/a5835.pdf>  
<http://www.epa.gov/fedrgstr/EPA-AIR/2009/March/Day-20/a5836.pdf>

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## MACT Updates

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**MACT ZZZZ for Stationary Reciprocating Internal Combustion Engines (RICE)** - EPA proposed NESHAP emission limits on hazardous air pollutants from existing RICE units which are not already covered under the rule. EPA also proposes to amend regulations regarding operation of engines during periods of startup, shutdown and malfunction. Refer to our website for details. <http://www.epa.gov/ttn/atw/rice/fr05mr09.pdf>  
<http://www.waid.com/Pages/WithinSummaries/ProposedAirToxStds.pdf>

**Delay in MACT CC for Petroleum Refineries Promulgation** - EPA is delaying promulgation of changes in MACT CC. According to a February 27<sup>th</sup> letter to the Sierra Club, EPA was considering their request to delay promulgation of the rule "as we evaluate additional issues and options affecting the petroleum refinery sector." Since EPA never issued the rule in the *Federal Register*, it could allow EPA to consider revising the rule and re-open for public comment.

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## Reminders

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Submit annual compliance reports (ECT-1) for sources subject to the NO<sub>x</sub> Mass Emissions Cap and Trade Program **3/31/2009**

Submit emission inventories **3/31/2009** unless otherwise specified by TCEQ.

Submit reports summarizing all uses of PBR §106.261 during the calendar year (and not previously registered) **3/31/2009**

Part 2 applications for case-by-case MACT are due as prescribed by the TCEQ for those who submitted Part 1 applications. Many are due the **end of April**.

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## Waid News

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**What's in a Name? - Waid and Associates** is formally changing our business name to **Waid Environmental** to more closely identify our name to our strength and work focus.

**Promotions** - Waid Environmental is pleased to announce the promotion of Chris L. Bauer, P.E. and Jason M. Graves, P.E. to the position of Principal Engineer. Jason and Chris consistently demonstrate the strong commitment to providing clients with the highest quality of service that Waid is known for in the industry. Their individual contributions to our team effort are greatly appreciated, and these promotions are well deserved.