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Texas SIP**Elements of New Source Review (NSR) Program -**

EPA proposed to disapprove elements of TCEQ's NSR program which could potentially eliminate flexible permits, qualified facility authorizations, and New Source Reform (including PAL authorization). EPA cited that these sections do not meet the Clean Air Act requirements. Earlier this year (July 2009) a court settlement with Business Coalition for Clean Air (BCCA) Appeal Group, Texas Association of Business, and Texas Oil and Gas Association forced EPA to expedite their analysis on the Texas SIP and consequently must provide decisions in less than one year. The TCEQ is working with the EPA to resolve the issues. Comments must be received no later than 60 days after the federal register date. The proposal has not yet been published in the federal register.

The schedule for EPA to issue its final decisions on the Qualified Facilities revision, Flexible Permit revision, and NSR revision is March 2010, June 2010, and August 2010, respectively. EPA is required to complete action on all 30 of the state's proposed regulatory changes by December 31, 2013.
<http://www.epa.gov/Region6/6xa/sippresrelease.html#fedreg>
<http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-30/a18197.pdf>

Also, in November 2008, EPA proposed to disapprove a portion of the TCEQ's public participation program. EPA will issue its final decision on this proposal by November 30, 2009.

Houston-Galveston-Brazoria (HGB) 8-hr Ozone (Chapter 117) - The EPA approved the changes to the SIP with regards to the output-based NO_x monitoring option for engines and turbines located in the Houston-Galveston-Brazoria 8-hr ozone

nonattainment area. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-31/a18345.pdf>

Clean Air Interstate Rule (CAIR) - In preparation of a SIP submittal, the TCEQ proposed changes to Chapter 101 to address the federal Phase II CAIR program requirements. Electric utilities including municipal, independent, river authorities, and cooperatives are affected by the federal regulation. The proposal incorporates the federal requirements by reference with requirements on the NO_x allocation methodology and timing. The proposal includes 9 control periods (instead of 7) and moves the baseline heat input adjustment from 2016 to 2018.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/07053101_pro.pdf

Clean Air Mercury Rule (CAMR) - The TCEQ proposed to repeal the requirements in Chapters 101 and 122 with regards to the now vacated federal CAMR.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/07054101_pro.pdf

Chapter 117 (Exemptions) - The TCEQ proposed to include low temperature drying and curing ovens as exempt from emission specifications in the Dallas-Fort Worth (DFW) ozone nonattainment area.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09023117_pro.pdf

TCEQ Updates

Flash Emissions - TCEQ conducted a study to evaluate methods and models for estimating flashing emissions from storage tank batteries. The study gathered process, operational, and measurement data from tank batteries servicing gas or oil wells across the state.

<http://www.waid.com/downloads/TCEQStudyFlashemissions.pdf>

Management Position Changes - Governor Perry appointed Carlos Rubinstein as a TCEQ commissioner. Bryan W. Shaw, Ph.D. now presides over the commission.

http://www.tceq.state.tx.us/comm_exec/communication/media/08-09RubinsteinAppointment.html

Health Effects Guidance - The TCEQ issued the new Modeling and Effects Review Applicability (MERA) Guidance Document (July 2009).

<http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/mera.pdf>

Portable and Temporary Facility - The TCEQ proposed to add definitions and requirements in §116 on portable facilities. The proposal takes the place of the TCEQ guidance on portable facilities. The use of Permits by Rule to authorize operations while stationary at a facility will still be allowed.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08031116_pro.pdf

<http://www.tceq.state.tx.us/permitting/air/newsourcereview/portable.html>

DeMinimis - The TCEQ adopted the repeal of nine Permits by Rule which are now addressed in the 'De Minimis Facilities or Sources' list.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/08029106_ado_clean.pdf

Stakeholder Groups Updates:

Title V Group - A meeting was held in August to discuss the pending rulemaking for the air emissions fee rule which requires annual air emissions fees from non-major sites which are subject to new federal regulations such as the new federal engine rules.

http://www.tceq.state.tx.us/assets/public/permitting/air/Announcements/Advisory/Agendas_Minutes/ppt_8_11_09.pdf

Flare Task Force Stakeholder Group - Two identical meetings are scheduled in September to discuss the content of the Draft Flare Task Force Report.

http://www.tceq.state.tx.us/implementation/air/rules/flare_stakeholder.html

Highly Reactive VOC (HRVOC) Emissions Cap and Trade Program (HECT) - On September 23, 2009 the TCEQ commissioners approved the recommendation to propose to reduce the HRVOC allowance cap in Harris County by 25% in a step down fashion and revise the allowance allocation methodology.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09006101_pro.pdf

Mass Emissions Cap and Trade (MECT) Program Cap for Houston-Galveston-Brazoria (HGB) - On September 23, 2009 the TCEQ commissioners approved the recommendation to propose changes to §117. After March 30, 2010, late Form ECT-3 may no longer be accepted. The definition of "Uncontrolled design capacity" is expected to change.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09019101_pro.pdf

Dallas-Fort Worth (DFW) 1997 Eight-Hour Ozone Nonattainment Area - On September 23, 2009 the TCEQ commissioners approved to propose a SIP revision for the DFW nonattainment area for the 1997 8-hr ozone standard.

http://www.tceq.state.tx.us/assets/public/implementation/air/sip/dfw/dfw_ad_sip_2009/DFW_RRC-SIP_Narrative.pdf

Volatile Organic Compound (VOC) Control Technique Guidelines Update - On September 23, 2009 the TCEQ commissioners approved the recommendation to propose rule changes to §115 concerning VOC standards for offset lithographic printing lines in the HGB and DFW areas.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08019115_pro.pdf

EPA Updates

Greenhouse Gases (GHG) Reporting Rule - On September 22, 2009 EPA signed the rule for mandatory reporting of GHG. The rule requires certified annual reports of actual emissions from large sources of GHG with the first report due 2011 for the emissions during 2010. Of particular note, the threshold for CO₂ is 25,000 metric tons/yr. EPA did not finalize several subparts to evaluate public comments, notably electronics manufacturing, oil and natural gas systems, industrial landfills, and wastewater treatment.

The following summarizes the main changes made since the proposed rule text:

- 1) Reduce the number of source categories
- 2) Allow cessation of reporting based on three or five consecutive years of data below specific threshold levels
- 3) Allow cessation of reporting for shutdown facilities
- 4) Add a mechanism for correcting submitted reports
- 5) Allow the use of best available monitoring methods for 2010 calculations or for a portion of 2010
- 6) Add calibration requirements
- 7) Exclude research and development facilities from reporting
- 8) Modify the 'Designated Representative' to be more consistent with 40 CFR Part 75
- 9) Increase the file retention to five years
- 10) Clarify the contents of the monitoring plan
- 11) Modify stationary fuel combustion CEMS requirement to be more consistent with other subparts
- 12) Clarify when to use CEMS
- 13) Revise several definitions
- 14) Move some elements of the recordkeeping over to the reporting section.

A summary of the GHG rule is forthcoming to our website.

<http://www.epa.gov/climatechange/emissions/downloads09/FinalMandatoryGHGReportingRule.pdf>

<http://www.epa.gov/climatechange/emissions/downloads09/FinalMandatoryGHGPreamble.pdf>

<http://www.epa.gov/climatechange/emissions/GHG-calculator/index.html>

Mandatory Reporting GHG Rule Training - EPA will be providing training sessions on the Mandatory Reporting GHG rule, in-person and also several web based sessions.

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

Ozone National Ambient Air Quality Standards (NAAQS) - In response to a March 2009 court ruling, EPA will review the March 2008 ozone standard (0.075 ppm) until they determine if a revision is needed. The court granted a stay on the litigation to provide EPA time to review the standards. EPA will continue to require Prevention of Significant Deterioration (PSD) permitting for the 2008 ozone standards but stays the 2008 standards for nonattainment designations. The 1997 ozone standards will continue to be implemented as well. EPA will propose any revisions by December 2009 and issue final decisions by August 2010.

http://www.epa.gov/groundlevelozone/pdfs/O3_Reconsideration_FACT%20SHEET_091609.pdf

8-hr Ozone NAAQS - EPA adopted changes to the NAAQS to allow certain credits toward reasonable further progress (RFP) from emissions reductions outside the nonattainment area.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/August/Day-11/a19190.pdf>

SO₂ NAAQS - The final report, Risk and Exposure Assessment to Support the Review of the SO₂ Primary National Ambient Air Quality Standard: Final Report is available.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-29/a18005.pdf>

PM NAAQS - A second draft of the Second External Review Draft Integrated Science Assessment for Particulate Matter reports, EPA/600/R-08/139B and EPA/600/R-08/139BA, are available. The document is part of the PM NAAQS review. Comments should be submitted on or before October 15, 2009. Public meetings will be held in October and November.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-31/a18387.pdf>

NO_x and SO₂ NAAQS Secondary Standards - The final report, "Risk and Exposure Assessment to Support the Review of the Secondary National

Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur: Second Draft," is available.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/September/Day-23/a22951.pdf>

Ambient Measurement Methods - EPA designated a new reference method for measuring ambient oxides of nitrogen (NO_x) and two new equivalent methods for ozone and sulfur dioxide.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-31/a18388.pdf>

PSD for Particulate Matter Less than 2.5

micrometers (PM_{2.5}) - EPA proposed a 9-month extension on the existing administrative stay of the "grandfathering" provision for PM_{2.5} requirements. For applications received before July 15, 2008 PM₁₀ can be a surrogate for meeting the new PM_{2.5}

requirements. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-23/a17541.pdf>

2008 TRI Data - The preliminary report on the 2008 TRI data is available. The report accounts for 80 to 85% of total data. www.epa.gov/tri

Court Decision on Section 112 of the CAA on Standards During Startup, Shutdown, and Malfunction (SSM) - EPA's letter addressing concerns about the December 2008 court vacatur of SSM exemptions is available.

<http://www.epa.gov/compliance/civil/caa/ssm-memo080409.pdf>

Enforcement Program - EPA initiates an online discussion (until December 1st) to receive public input on the future enforcement program priorities. The current 2010 focus includes storm water runoff, air toxics, concentrated animal feeding operations, and mineral processing.

<http://blog.epa.gov/enforcementnationalpriority/>

<http://www.epa.gov/compliance/data/planning/priorities/index.html>

Risk Management Plans (RMPs) - Beginning September 21st, RMPs should be sent to Risk Management Plan (RMP) Reporting Center, P.O. Box 10162, Fairfax, VA 22038. Courier deliveries and express mail should be addressed to: RMP Reporting Center, c/o CGI Federal, 12601 Fair Lakes Circle, Fairfax, VA 22033.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/September/Day-10/a21824.pdf>

Federal Register Website - On November 1, 2009, EPA's federal register website will be moved to regulations.gov. <http://www.regulations.gov/search/Regs/home.html#home>

NSPS Ce for hospital, medical, and infectious waste incinerators (HMIWI) - EPA approved changes which revised the emission standards and added monitoring and testing requirements.

http://www.epa.gov/ttn/oarpg/t1/fact_sheets/hmiwi_fr_fs091509.pdf

Emissions Comparable Fuels (ECF) Rule - EPA is evaluating public comments on the ECF rule and will make a determination whether to withdraw the ruling.

MACT Updates

MACT BBBBBBB for Chemical Preparations Industry - EPA proposed particulate requirements for area sources involved in the chemical preparations industry such facilities under NAICS codes 311942, 325199, 325510, and 325998.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/August/Day-05/a18537.pdf>

Reminders

HRVOC (Highly Reactive VOC) Rules (Chapter 115) for Fugitive Emissions:

- Submit the verbal notification at least 30 days prior to the start of the third-party audit and no later than **12/01/2009**.
- Conduct the third party audit and submit the report within 30 days of completing audit.

Semiannual MACT compliance reports are due **1/31/2010** unless an alternative date is established by the Title V permit.

On The Horizon

MACT DDDDD for Boiler and Heaters (Boiler MACT) - EPA is slated to re-propose the Boiler MACT by April 2010 instead of September 2009. The TCEQ issued another 60 day extensions for full Part 2 applications for the case by case Boiler MACT.

<http://www.waid.com/downloads/secsignedfinaldeadlineorder.pdf>

Lead Standard Attainment Designation and Boundary Recommendation - By October 2009 the state is expected to recommend a portion of Collin County in nonattainment with regards to the 2008 lead National Ambient Air Quality Standard.

http://www.tceq.state.tx.us/implementation/air/sip/lead/lead_main.html