

**In This Issue:**

Texas SIP  
TCEQ Updates  
EPA Updates  
MACT Updates  
Reminders  
On the Horizon

**Texas SIP**

**Texas New Source Review (NSR) Program** - EPA proposed to disapprove elements of the TCEQ's NSR program which could potentially eliminate flexible permits, qualified facility authorizations, and New Source Reform (including PAL authorization). EPA also proposed to disapprove a portion of the TCEQ's public participation program. 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/sippressrelease.html#fedreg>  
<http://www.epa.gov/fedrgstr/EPA-AIR/2009/July/Day-30/a18197.pdf>

The TCEQ provided a formal response to the EPA and proposed to make changes to the public participation and the requirements regarding the PSD permit program. The TCEQ proposed changes to Chapter 116 to incorporate the reference to §52.21(j) for the definition of BACT and also to include provision of major source/major modification status based on the relaxation of an emission limitation.

[http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip\\_flexiblepermits\\_ltr.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip_flexiblepermits_ltr.pdf)  
[http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip\\_nsrrreform\\_ltr.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip_nsrrreform_ltr.pdf)  
[http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip\\_qualifiedfacilities\\_ltr.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/NewSourceReview/notices/sip_qualifiedfacilities_ltr.pdf)  
[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/10004116\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/10004116_pro.pdf)  
[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/10005116\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/10005116_pro.pdf)

**Fee for Failure to achieve Ozone Attainment** -

Under the SIP requirements a severe ozone nonattainment area must pay an annual fee if the attainment deadline has not been met. The Houston-

Galveston-Brazoria (HGB) area was classified as severe for both the one-hour ozone NAAQS and the 1997 eight-hour ozone NAAQS. The TCEQ proposed to implement the fee obligation. Major stationary sources are subject to paying a fee of \$5,000/ton (adjusted by the consumer price index) in excess of 80 percent of a baseline amount of VOC and NO<sub>x</sub>. The fee will be due annually until the area is redesignated attainment or has three years of data demonstrating attainment.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/09009101\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09009101_pro.pdf)

A recent EPA memo, though, suggests that the TCEQ may request for a waiver from collecting fees.

[http://www.tceq.state.tx.us/assets/public/implementation/air/ie/pseiforms/guidance\\_feeprog185.pdf](http://www.tceq.state.tx.us/assets/public/implementation/air/ie/pseiforms/guidance_feeprog185.pdf)

**1997 Annual Fine Particulate Matter (PM<sub>2.5</sub>) Standard** -

The TCEQ recommended to the Governor that Harris County be designated as in attainment with the 1997 PM<sub>2.5</sub> standards.

[http://www.tceq.state.tx.us/assets/public/implementation/air/sip/pm25/2\\_CWS\\_package\\_rev.pdf](http://www.tceq.state.tx.us/assets/public/implementation/air/sip/pm25/2_CWS_package_rev.pdf)

**Victoria County 1997 Eight-Hour Ozone SIP Revision** -

On January 13, 2010, the TCEQ commissioners approved to propose the SIP revision for the Victoria County. The revision would amend contingency measures of Victoria County's attainment plan.

[http://www.tceq.state.tx.us/assets/public/implementation/air/sip/vic/ED\\_Recommended\\_Contingency\\_Plan\\_Revision.pdf](http://www.tceq.state.tx.us/assets/public/implementation/air/sip/vic/ED_Recommended_Contingency_Plan_Revision.pdf)

**Highly Reactive VOC (HRVOC) Emissions Cap and Trade Program (HECT)** -

The TCEQ proposed to reduce the existing HRVOC allowance cap in Harris County by 25% and revise the allowance allocation methodology.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/09006101\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09006101_pro.pdf)

**Dallas/Fort Worth (DFW) Ozone Nonattainment Area** -

The TCEQ adopted changes to Chapter 117 to provide exemption for low temperature drying and curing ovens used in mineral wool-type fiberglass manufacturing and wet-laid, non-woven fiber mat manufacturing in which nitrogen-containing resins or other additives are used.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/09023117\\_ado\\_clean.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/09023117_ado_clean.pdf)

---

## TCEQ Updates

---

**Air Emissions Fees** - The TCEQ proposed changes to §101 which will expand the requirements of emission fees to all sites with a federal operating permit.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/08025101\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08025101_pro.pdf)

**Chapter 115 Volatile Organic Compounds (VOC) Fugitive Emission Leak Detection and Repair (LDAR) Alternative Work Practice (AWP)** -The TCEQ proposed changes to the LDAR requirements in §115 to allow the option of using gas imaging technology for detecting fugitive leaks. The proposal incorporates EPA's LDAR AWP programs in 40 CFR 60, 61, 63, and 65. The changes are for general VOC LDAR requirements and as for the HRVOC fugitive program.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/09030115\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09030115_pro.pdf)

**Mass Emissions Cap and Trade (MECT) Program for Houston-Galveston-Brazoria (HGB) Eight-Hour Ozone Nonattainment Area** -The TCEQ proposed to no longer accept late Form ECT-3 for major source sites. The definition of "uncontrolled design capacity" is also proposed to be revised.

[http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/proposals/09019101\\_pro.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09019101_pro.pdf)

**Air Permits Watch List (APWL)** - The TCEQ proposed the removal of materials from the APWL for several sites, such as removing benzene from the APWL for Beaumont, Lynchburg Ferry Area (Harris County), and Corpus Christi.

[http://www.tceq.state.tx.us/implementation/tox/AirPollutantMain/APWL\\_in dex.html](http://www.tceq.state.tx.us/implementation/tox/AirPollutantMain/APWL_in dex.html)

**Texas TERP Rebate Program** - The TCEQ is no longer accepting applications as all current funds have been awarded.

<http://www.tceq.state.tx.us/implementation/air/terp/rebate.html>

**Maintenance, Startup, Shutdown (MSS) Air Permits** - The TCEQ developed a memo and sent out a letter to chemical plants concerning the deadline for authorizing MSS emission sources through the air permitting process. Since the two-year deadline has past, the TCEQ provided their position on enforcement for permit applications not yet processed by the TCEQ. Enforcement discretion will be used if an MSS application remains pending

more than two years after a permit application is filed, until issuance or denial of the permit or until an application is voided.

[http://www.tceq.state.tx.us/assets/public/permitting/air/memos/msschem memo\\_12\\_8\\_09.pdf](http://www.tceq.state.tx.us/assets/public/permitting/air/memos/msschem memo_12_8_09.pdf)

**Site Operating Permit (SOP) Submittals** - Effective December 16, 2009, a copy of all non-confidential SOP initial, renewal, minor revision, and significant revision applications and application updates should be submitted on a readable compact disc to:

Environmental Protection Agency, Region 6  
Air Programs Branch (6T-AN)  
1445 Ross Avenue, suite 700  
Dallas, Texas 75202-2733

The electronic format should be WORD, EXCEL and/or searchable Adobe Acrobat (pdf).

<http://www.tceq.state.tx.us/permitting/air/titlev/submittal.html>

---

## EPA Updates

---

**Region 6 Administrator** - EPA announced Dr. Alfredo Armendariz as the Regional Administrator for EPA's Region 6.

<http://yosemite.epa.gov/opa/admpress.nsf/e8f4ff7f7970934e8525735900400c2e/e5a2e935be9bc4bb852576650071b61f!OpenDocument>

**Greenhouse Gases (GHG) Rule** - EPA issued the final determination that GHG are an endangerment to public health and welfare, paving the way for future regulation changes to the Federal NSR and Title V programs. The findings are effective January 14, 2010. <http://edocket.access.gpo.gov/2009/pdf/E9-29537.pdf>

For the Mandatory GHG Reporting requirements a form is available if you need to request an extension on the best monitoring methods requirements of 40 CFR 98.

[http://www.epa.gov/climatechange/emissions/downloads10/BAMM\\_Petition\\_Form\\_121809.pdf](http://www.epa.gov/climatechange/emissions/downloads10/BAMM_Petition_Form_121809.pdf)

**PSD and GHG** - EPA granted reconsideration of the regulatory phrase "subject to regulation" as it applies to pollutants subject to the federal PSD program. EPA requests public comments on the interpretation of this phrase. GHG and the method of regulating GHG are at the root of this reconsideration.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/October/Day-07/a24196.pdf>

**PSD and Nonattainment Inclusion of Fugitives** - EPA will provide an additional 3-month stay on the requirement to include fugitive emissions for modifications.

<http://edocket.access.gpo.gov/2009/pdf/E9-29068.pdf>

**PSD for Particulate Matter Less than 2.5 micrometers (PM<sub>2.5</sub>)** - In September 2009 EPA issued a 9-month extension on the existing administrative stay of the “grandfathering” provision for PM<sub>2.5</sub> requirements. EPA designated areas that meet the 2006 PM<sub>2.5</sub> 24-hr standard.

<http://www.epa.gov/fedrgstr/EPA-AIR/2009/September/DAY-22/a22903.pdf>  
<http://edocket.access.gpo.gov/2009/pdf/E9-25711.pdf>

**NO<sub>2</sub> NAAQS** - EPA promulgated the 1-hour NO<sub>2</sub> NAAQS at 100 ppb.

<http://www.epa.gov/ttn/naaqs/standards/nox/data/20100122fr.pdf>

**Ozone National Ambient Air Quality Standards (NAAQS)** - EPA proposed reducing the 8-hour primary standard from 0.075 ppm to a lower level in the range of 0.060 to 0.070 ppm. EPA also provided notice that they will use a 1-year extension of the deadline for designating the nonattainment areas with the proposed new standard (extended to March 12, 2011). <http://edocket.access.gpo.gov/2010/pdf/2010-340.pdf>  
<http://edocket.access.gpo.gov/2010/pdf/2010-349.pdf>

**CO NAAQS** - In October 2009 EPA released a draft assessment document: Risk and Exposure Assessment to Support the Review of the Carbon Monoxide (CO) Primary National Ambient Air Quality Standards-First External Review Draft which provides the NAAQS review being conducted for CO.

<http://edocket.access.gpo.gov/2009/pdf/E9-26093.pdf>

**SO<sub>2</sub> NAAQS** - EPA proposed a 1-hr standard for SO<sub>2</sub> which is expected to be set between 50 and 100 ppb. Provide comments by February 8, 2010.

<http://edocket.access.gpo.gov/2009/pdf/E9-28058.pdf>

**Petroleum Refinery Wastewater Emissions Tool** -

EPA posted the draft Emission Estimation Protocol for Petroleum Refineries and the Refinery Wastewater Emissions Tool.

<http://www.epa.gov/ttn/chief/efpac/esttools.html>

**Emission Comparable Fuels (ECF) Rule** - EPA proposed to withdraw the January 2009 ECF rule due to the difficulty to administer the requirements as intended. After evaluating public comments, EPA will make a decision on whether to repeal the exclusion.

<http://edocket.access.gpo.gov/2009/pdf/E9-29063.pdf>

**Operating Permits Program-Flexible Permit Rule** -

EPA issued the final revisions to add the alternative operating scenario (AOS) and approved replicable methodology (ARM). <http://edocket.access.gpo.gov/2009/pdf/E9-23794.pdf>

**Resource Conservation and Recovery Act (RCRA) Hazardous Waste for Recycling** - EPA issued changes on the importing and exporting of hazardous wastes such as additional certification and procedures. Additional controls apply to spent lead-acid batteries.

<http://www.epa.gov/epawaste/hazard/international/oecd-slab-rule.htm>

**Stormwater Regulations** - EPA held several sessions in January to receive input on the preliminary stormwater regulations changes regarding new development and redevelopment. Provide written comments by February 26, 2010.

<http://www.epa.gov/npdes/stormwater/rulemaking>  
[http://www.epa.gov/npdes/regulations/fedreg\\_swmanagement.pdf](http://www.epa.gov/npdes/regulations/fedreg_swmanagement.pdf)

**SPCC Rule** - Effective January 14, 2010 EPA amended the SPCC rule. Some of the changes addressed the oil production facilities and also clarified secondary containment requirements.

<http://edocket.access.gpo.gov/2009/pdf/E9-27156.pdf>

**Effluent Limitations Guidelines and Standards for the Construction and Development Point Source** -

EPA issued the final rule to reduce water runoff at construction sites. The rule takes effect February 2010 and will be phased in over the next four years.

<http://edocket.access.gpo.gov/2009/pdf/E9-28446.pdf>

**TSCA Notice on Confidential Chemical** - EPA gave notice that any chemicals already publicly available will not longer be considered for confidentiality.

<http://edocket.access.gpo.gov/2010/pdf/2010-1105.pdf>

---

## MACT Updates

---

**MACT VVVVVV - National Emission Standards for Hazardous Air Pollutants for Chemical**

**Manufacturing Area Sources** - EPA issued standards for nine area source categories: 1) Agricultural Chemicals and Pesticides Manufacturing, 2) Cyclic Crude and Intermediate Production, 3) Industrial Inorganic Chemical Manufacturing, 4) Industrial Organic Chemical Manufacturing, 5) Inorganic Pigments Manufacturing, 6) Miscellaneous Organic Chemical Manufacturing, 7) Plastic Materials and Resins Manufacturing, 8) Pharmaceutical Production, and 9) Synthetic Rubber Manufacturing. The rule establishes management practices, emission limits for certain subcategories of process vents and storage tanks.

<http://edocket.access.gpo.gov/2009/pdf/E9-25576.pdf>

**MACT CC Petroleum Refineries** - EPA added requirements for heat exchangers. EPA proposed to withdraw the residual risk and technology review portions. <http://edocket.access.gpo.gov/2009/pdf/E9-25454.pdf>  
<http://edocket.access.gpo.gov/2009/pdf/E9-25453.pdf>

**MACT BBBBBBB - Chemical Preparations Facilities Area Source Standards** - EPA promulgated management practices for the chemical preparation facilities. <http://edocket.access.gpo.gov/2009/pdf/E9-30500.pdf>

**MACT AAAAAAA - Asphalt Processing and Asphalt Roofing Manufacturing Area Sources** - EPA promulgated management practices for the asphalt processing and roof manufacturing facilities. <http://edocket.access.gpo.gov/2009/pdf/E9-27946.pdf>

**MACT CCCCCC - Paints and Allied Products Manufacturing Area Sources** - EPA promulgated the final rule on the emission standards and management practices for paints and allied products manufacturing area sources but does not include resin manufacturing covered by the Subpart VVVVVV. <http://edocket.access.gpo.gov/2009/pdf/E9-27947.pdf>

**MACT BBBBBB and CCCC - Gasoline Distribution Facilities Area Source** - EPA proposed changes to the definition of bulk gasoline plant, exempt emergency generators, and gasoline fired fire pumps. Provide comments by February 16, 2010. <http://edocket.access.gpo.gov/2009/pdf/E9-29570.pdf>

---

## Reminders

---

Submit GHG requests for extension of use of the 'Best Available Monitoring Methods' by **1/28/10**.

Submit Form ECT-2 involving the transfer of allowances needed for compliance during the 2009 control period by **1/30/2010**.

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

Submit annual compliance reports (Form ECT-1) for sources subject to the NO<sub>x</sub> Emissions Cap and Trade Program **3/31/2010**.

Submit annual compliance reports (Form ECT-1H) for sources subject to the HRVOC Emissions Cap and Trade Program **3/31/2010**.

Submit emission inventories **3/31/2010** unless otherwise specified by TCEQ.

Submit reports summarizing all uses of PBR §106.261 during the calendar year (and not previously registered) **3/31/2010**.

GHG monitoring plans must be complete by **4/1/2010**.

---

## On The Horizon

---

**MACT DDDDD for Boiler and Heaters (Boiler MACT) - MACT DDDDD - Industrial Boiler and Heaters** - EPA secured a court extension until April 15, 2010 for the MACT DDDDD proposal instead of September 2009. The final rule would be due out December 15, 2010. The TCEQ subsequently issued an indefinite extension on the full Part 2 applications to those who submitted Part 2 abbreviated applications.

**Coal- and Oil- Fired Electric Generating Units (EGU)** - Under the terms of the proposed consent decree, EPA is directed to provide notice of proposed rulemaking for emission standards for coal- and oil-fired EGUs by March 16, 2011. <http://www.epa.gov/fedrgstr/EPA-AIR/2009/October/Day-28/a25992.pdf>

**TRI** - EPA intends to propose by May 2010 a regulation to incorporate chemicals from National Toxicology Program's Report on Carcinogens (ROC) into the TRI list.

**Clean Air Mercury Rule (CAMR)** - The TCEQ expects to adopt the repeal of the CAMR state plan from Chapters 101 and 122 since the federal rule was vacated. [http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/07052SIP\\_aex.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/07052SIP_aex.pdf)

**Clean Air Interstate Rule (CAIR)** - The TCEQ expects to adopt the changes to Chapter 101 to incorporate the federal CAIR rules by February 2010. [http://www.tceq.state.tx.us/assets/public/legal/rules/rule\\_lib/adoptions/07053101\\_aex.pdf](http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/07053101_aex.pdf)