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Top Stories

Flexible Permitting and Qualified Facilities - In May 2010 EPA announced that they would take over 39 Title V operating permits in Texas which had flexible New Source Review (NSR) permits and threatened to take over the entire Texas NSR program unless there were assurances by July 1st that Texas would come into compliance with federal law. In June 2010 EPA made final disapproval of TCEQ's flexible permit program and the Qualified Facilities program. Several steps have been made by the TCEQ to demonstrate federal law compliance as noted in the following highlights. Additionally, Texas Attorney General Greg Abbott filed a petition with the U.S. Court of Appeals..

<http://edocket.access.gpo.gov/2010/2010-16776.htm>
Qualified Facility (QF) program have been disapproved by EPA effective May 14, 2010.

Additionally EPA offered options to move from a flexible permit to a SIP-approved NSR permit ("de-flex") using one of two options. Option 1 is to first "de-flex" using an alteration followed up with a renewal or amendment application within a specified timeframe in order to use public notice participation. Option 2 is to use an alteration while under an administrative order.

http://www.tceq.state.tx.us/assets/public/permitting/air/Announcements/deflex_toepa_7_6_10.pdf

EPA also offered holders of Texas flexible air permits an opportunity to participate in a voluntary compliance audit program ("Audit Program"). EPA requested informal comment on the Audit Program.
<http://edocket.access.gpo.gov/2010/2010-14653.htm>

TCEQ Title V Permitting - Effective August 1, 2010, all vents constructed on or before January 31, 1972 need to be identified in the Title V permit. Currently this DOES NOT include vents previously addressed under §111.111(a)(1)(A) site wide requirements. In

order to address one of EPA's concerns, the TCEQ Air Permits Division will require that these vents be identified on the OP-SUM, OP-UA15, and OP-MON forms. This change will need to be incorporated into any permit when it is open for review and for permits currently open for review which have not gone to public notice by August 1, 2010.

http://www.tceq.state.tx.us/permitting/air/announcements/tv_announce_06_25_10.html

NSR Permitting - The following portions of the NSR Air Permit Program are adopted, proposed or proposal pending for revisions to address requirements of the Federal Clean Air Act (FCAA): BACT (adopted 6/2/2010)

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/1000516_ado_clean.pdf

NSR Reform (proposal pending for 8/11/2010)

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/1000816_pro.pdf

Flexible Permitting (proposed 6/16/2010)

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/1000716_pro.pdf

Qualified Facilities (proposed 3/30/2010)

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/1000616_pro.pdf
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/SIPsupplement.pdf

Public Participation - The TCEQ adopted changes concerning the public participation process. Any minor NSR Air permit applications or amendments including Plant-wide Applicability Limit Permit (PAL) submitted on or after June 24, 2010 and subject to public comment requirements in Chapter 39 are required to go through two public comment periods. The second public notice requirement applies to all permits application types subject to Chapter 39.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/10004039_ado_clean.pdf

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/10004055_ado_clean.pdf

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/1000416_ado_clean.pdf

Oil and Gas Permit By Rule (PBR) and Standard Permit - On July 28th, the TCEQ Commissioners approved publication of the proposed new PBR and new non-rule Standard Permit plus the repeal of the current PBR §106.352 and Oil & Gas (rule) Standard Permit. The proposal updates control

requirements to current BACT, authorizes maintenance, startup, and shutdown (MSS) operations, and requires a single site-wide authorization for oil and gas production facilities. The proposal significantly increases monitoring and recordkeeping requirements for these facilities and, for the first time in the oil and gas PBR, imposes hourly emissions limitations for most air pollutants. The proposal also requires registration by 2013 of all oil and gas facilities not currently registered.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/10018106_pro.pdf
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/OGS%20Standard%20Permit.pdf

Texas SIP

Emission Events and Schedules MSS Activities -

EPA approved a portion of the revision to the Texas SIP with regard to the Emission Events and Scheduled MSS Activities (Chapters 101 Subchapters A and F). EPA disapproved the affirmative defense portion.

<http://edocket.access.gpo.gov/2010/2010-11429.htm>
<http://edocket.access.gpo.gov/2010/2010-14094.htm>

Beaumont Port Arthur (BPA) -

- redesignate the BPA ozone nonattainment area to attainment of the 1997 8-hr ozone standard
- include a maintenance plan with a 2021 Motor Vehicle Emissions Budget (MVEB) are part of the proposed SIP
- make a determination that the BPA ozone nonattainment area is meeting the 1-hr ozone standard
- approve the Texas Clean-Fuel Vehicle (CFV) program equivalency demonstration
- approve various contingency and control measures

<http://edocket.access.gpo.gov/2010/2010-11694.htm>

Dallas Fort Worth (DFW) - The TCEQ published notice of the contingency measures in Chapter 115 for the 1997 8-hr ozone attainment area. The contingency measures include degassing or cleaning of stationary, marine, and transport vessels and also petroleum dry cleaning systems. Stationary storage vessels $\geq 1,000,000$ gallons and transport vessels $\geq 8,000$ gallons storing materials with a vapor pressure less than 0.5 psia are affected.

<http://www.tceq.state.tx.us/assets/public/implementation/air/sip/dfw/05211s.pdf>

Victoria County - The TCEQ commission approved submitting a request for a revision to the SIP to incorporate contingency plans for the 1997 8-hr ozone maintenance plan.

http://www.tceq.state.tx.us/assets/public/implementation/air/sip/vic/09033_complete_sip.pdf

Discrete Emission Reduction Credit (DERC) - EPA approved portions of the SIP submitted October 24, 2006 and Austin 16, 2007 with regards to DERCs.

<http://edocket.access.gpo.gov/2010/2010-11681.htm>
<http://edocket.access.gpo.gov/2010/2010-11683.htm>

Emissions Inventory - EPA approved the SIP changes (from December 1999 and February 2007) with regards to Emissions Inventories (EIs) and conformity to general actions. The TCEQ may collect additional data for stationary sources of carbon monoxide (CO) in areas which are in violation of the CO National Ambient Air Quality Standard (NAAQS) such as daily emission rates for CO and ozone precursor gases during the winter and summer months. <http://edocket.access.gpo.gov/2010/2010-17975.htm>

TCEQ Updates

Preventing Circumvention - The TCEQ proposed changes to §116.110 to place restrictions on the use of PBR and Standard Permits in order to avoid the possibility of circumvention. A NSR air permit can not be submitted for 12 months for a facility or facilities when a PBR or Standard Permit was originally used for construction authorization.

http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09016106_pro.pdf
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09016116_pro.pdf

Greenhouse Gas Voluntary Actions - The TCEQ is accepting information on voluntary actions which meet specific criteria that reduce greenhouse gas emissions, particularly carbon dioxide (CO₂). The criteria must include:

- reductions based on direct emissions reductions
- reductions must be reported at an individual project level
- reductions must be obtained within the State of Texas
- reductions must be achieved between September 1, 2001, and December 31, 2009.

<http://www.tceq.state.tx.us/assistance/P2Recycle/inventory-of-voluntary-actions-to-reduce-greenhouse-gases>

DFW 8-hr Ozone SIP Stakeholder Group - The TCEQ held a stakeholder meeting to discuss the development of a new attainment demonstration for the 1997 8-hr ozone standard.
http://www.tceq.state.tx.us/implementation/air/sip/dfw_stakeholder_2.html

Chapter 115 Stakeholder Group - A stakeholder meeting was held in June to address the proposed changes of Chapter 115 (expected proposal November 2010). The rule is expected to include the DFW area and increase rule stringency for the Houston-Galveston-Brazoria (HGB) area.
http://www.tceq.state.tx.us/assets/public/implementation/air/rules/115/062410_Presentation.pdf

HRVOC Guidance - Guidance for participants in the Harris County HRVOC Emissions Cap and Trade program is now available for the Form ECT-6H submittal, Baseline Emissions Certification Form".
http://www.tceq.state.tx.us/implementation/air/banking/hrvoc_ept_pro_g.html

Chapter 115 Changes - The TCEQ proposed changes on the Fugitive Emission Leak Detection and Repair (LDAR) Alternative Work Practice and also VOC Degassing.
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/adoptions/09030115_ado_clean.pdf
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09036115_pro.pdf

1-Hr Ozone Nonattainment NSR - The TCEQ proposed rules to specify that nonattainment NSR permitting would include evaluation of the 1-hr standard classifications.
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08030101_pro.pdf
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/08030116_pro.pdf

Thermoset Resin PBR - The TCEQ proposed to repeal the PBR §106.392 since there will be a thermoset Standard Permit to use. The Standard Permit was proposed in April 2010.
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/10012106_pro.pdf

Air Emissions Fees - The TCEQ changed the language in Chapter 101 to 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/adoptions/08025101_ado_clean.pdf

Pollution Control Program Tax Relief - The TCEQ proposed uniform application of processing

standards to all requests for tax relief on pollution control property.
http://www.tceq.state.tx.us/assets/public/legal/rules/rule_lib/proposals/09050017_pro.pdf

TCEQ Advanced Air Permitting Seminar and Oil & Gas Facilities Seminar - The TCEQ will hold seminars on advanced air permitting and oil & gas facilities October 5th and 6th in Austin.
<http://www.tceq.state.tx.us/assistance/events/air-permitting.html>

Workshops on Pollution Prevention (P2) Planning - The TCEQ will hold workshops in October and November to help comply with the Waste Reduction Policy Act.
<https://www.uta.edu/wconnect/ShowSchedule.awp?~GROUP~CEE412>

Air Curtain Incinerator General Operating Permit (GOP) - The TCEQ provided notice of proposed revisions to the GOP 518. Provide comments by August 12, 2010.
<http://www.tceq.state.tx.us/permitting/air/announcements/nsrannounce070210.html>

EPA Updates

Greenhouse Gases (GHG) Thresholds for GHG Permitting Requirements - EPA promulgated the rule referred to as the Tailoring Rule to address the permitting of GHG from the largest sources. The tailoring rule addresses requirements for PSD Permitting and also Federal Operating Permitting (Title V). The requirements will be phased in starting January 2011 and ending 2015. The Tailoring Rule sets the threshold values for determining if a PSD permit is required (75,000 tons/yr as the significance level). All 6 GHGs are treated as one pollutant as a CO₂ equivalent (CO_{2e}).
<http://edocket.access.gpo.gov/2010/2010-11974.htm>

The Tailoring Rule is for permitting and differs from the GHG Mandatory Reporting Rule as noted below:

Tailoring Rule	Mandatory Reporting Rule
Short tons	Metric tons
Includes all sources	Includes specific units and activities
Pollutants: Carbon Dioxide (CO ₂), Methane (CH ₄), Nitrous Oxide (N ₂ O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulfur Hexafluoride (SF ₆)	Pollutants: Carbon Dioxide (CO ₂), Methane (CH ₄), Nitrous Oxide (N ₂ O)

GHG Mandatory Reporting Rule - EPA proposed changes to the Mandatory Reporting Rule to correct some technical and editorial errors and to clarify compliance obligations.

<http://edocket.access.gpo.gov/2010/2010-13361.htm>

EPA promulgated requirements for Underground Coal Mines, Industrial Wastewater Treatment Systems, Industrial Waste Landfills and Magnesium Production Facilities.

<http://edocket.access.gpo.gov/2010/pdf/2010-16488.pdf>

EPA proposed criteria to determine which data elements reported under Part 98 are confidential.

<http://edocket.access.gpo.gov/2010/2010-16317.htm>

The draft default emission factors for the semiconductor manufacturing refined process categories are now available.

<http://edocket.access.gpo.gov/2010/2010-11430.htm>

PSD and Nonattainment - Aggregation Rule - EPA extended the effective date of the Aggregation rule for either the completion of the judicial review or EPA's reconsideration of the rule.

<http://www.epa.gov/nsr/documents/20100506final.pdf>

NAAQS for NO₂ - EPA posted interim guidance for the implementation of NO₂ standard.

http://www.tceq.state.tx.us/permitting/air/memos/interim_guidance_naags.html

NAAQS for SO₂ - EPA promulgated the new 1-hr SO₂ NAAQS of 75 ppb and revoked the 24-hr standard. EPA also changed the requirements for new monitors begin operating no later than Jan. 1, 2013. EPA is expecting to use modeling as well as monitoring to determine compliance with the new standard.

<http://www.epa.gov/ttn/naaqs/standards/so2/fr/20100622.pdf>

NO₂ and SO₂ Transport - EPA proposed a provisions to replace the CAIR within the 32 eastern states to attain and maintain compliance with the 1997 and 2006 fine particulate matter (PM_{2.5})

NAAQS <http://www.epa.gov/airtransport/pdfs/TransportRule.pdf>

NAAQS for Existing Sources Hospital/Medical/ Infectious Waste Incinerators - This action proposes to make corrections to the NO_x and SO₂ emission limits and cross-references in the reporting and recordkeeping requirements.

<http://www.gpo.gov/fdsys/pkg/FR-2010-05-14/html/2010-11585.htm>

NSPS III and JJJJ for Stationary Compression Ignition and Spark Ignition Internal Combustion Engines - EPA proposed changes to regulate smaller stationary compression ignition engines including emergency engines. Emission limits and certification and operating requirements apply. EPA also made minor changes to the spark ignited provisions and added the definition of reconstruction. Provide comments by August 9, 2010.

<http://edocket.access.gpo.gov/2010/2010-12911.htm>

NSPS Ce for Solid Waste Incineration - EPA proposed changes to the industrial solid waste incineration rule, in particular changes to clarifying "commercial and industrial solid waste incineration unit" and "commercial or industrial waste." EPA extended the comment period to August 23rd.

<http://edocket.access.gpo.gov/2010/pdf/2010-10821.pdf>

Low Sulfur Diesel - EPA proposed and issued a change to the low sulfur diesel regulations to allow the use of the alternative affirmative defense for samples above the specified standard at retail facilities. <http://edocket.access.gpo.gov/2010/2010-10915.htm>

Significant New Alternatives Policy - Iso-butane, Propane, HCR-188C, and HCR-188C1 have been added as acceptable substitutes for ozone-depleting substances <http://edocket.access.gpo.gov/2010/2010-14510.htm>

Comparable Fuels Rule - EPA withdrew the Emission Comparable Fuels (ECF) Rule due to the difficulty of demonstration of compliance.

<http://www.epa.gov/epawaste/hazard/tsd/td/combust/compfuels/exclusion.htm>

Renewable Fuel Standards - EPA made changes and clarifications to the Renewable Fuel Standards.

<http://edocket.access.gpo.gov/2010/2010-10851.htm>

<http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>

Toxic Substances Control Act (TSCA) Chemical Substance Inventory - EPA provided web access to the TSCA inventory and added 6,300 chemicals and 3,800 chemical facilities to the database.

<http://yosemite.epa.gov/opa/admpress.nsf/0/B6E361B52038099485257726004E5A98>

RCRA Solid Waste Definition - EPA proposed a definition of a non-hazardous solid waste which would be used in other regulations such as NSPS or MACT regulations. Non-hazardous secondary materials which have been discarded will be

considered solid waste and can therefore be considered products after processing.

<http://edocket.access.gpo.gov/2010/pdf/2010-10837.pdf>

Water Quality Regulations - EPA will hold two sessions August 24th and 26th to provide information on the potential changes to the water quality standards, possibly affecting Total Maximum Daily Loads requirements, the National Pollutant Discharge Elimination System permits, and watershed management. The proposed changes are expected the summer of 2011.

<http://www.epa.gov/waterscience/standards/rules/wqs/listening.html>

Spill Prevention Control and Countermeasure (SPCC) - EPA proposed a 1-yr compliance date extension for certain facilities. Drilling, production or workover facilities associated with offshore operations are not eligible for the extension.

http://www.epa.gov/emergencies/content/spcc/compliance_dates.htm

MACT Updates

MACT CC for Refineries - EPA made corrections to typographical errors. <http://edocket.access.gpo.gov/2010/2010-15889.htm>

MACT ZZZZ for RICE Units - EPA made corrections to paragraphs inadvertently removed from the regulation. <http://edocket.access.gpo.gov/2010/2010-15886.htm>

MACT DDDDD for Boilers Process Heaters at Major Sources - EPA proposed the regulation for boilers and process heaters. Some highlights are:

- limits of Particulate (PM), Hydrogen Chloride (HCl), mercury, CO, and dioxins apply to units ≥ 10 MM Btu/hr. Note the 1 ppm_{vd} level of CO for some liquid or "other gas" fueled units which may be in conflict with calibration limits or achieving a NO_x level required in a permit or other regulations.
- refinery gas is not "other gas" in the regulation. Plant off gas or tail gas, for example, is considered "other gas."
- CEMS or testing requirements may apply.
- work practices apply to units <10 MM Btu/hr.

- energy assessment for certain units to identify cost-effective energy conservation measures.

EPA extended the comment period to August 23rd. <http://edocket.access.gpo.gov/2010/pdf/2010-10827.pdf>

MACT JJJJJJ for Boilers for Area Sources - EPA proposed the regulation for boilers (industrial and institutional and commercial boilers) at area sources. Some highlights are:

- limits of PM, mercury, and CO apply to units ≥ 10 MM Btu/hr firing various fuels except for strictly gas fired units
- work practices apply to units <10 MM Btu/hr.
- energy assessment for certain units to identify cost-effective energy conservation measures.

EPA extended the comment period to August 23rd. <http://edocket.access.gpo.gov/2010/pdf/2010-10832.pdf>

MACT CCCCC Paints and Allied Products Manufacturing Area Sources - EPA amended the definition of "material containing hazardous air pollutants."

<http://edocket.access.gpo.gov/2010/2010-13384.htm>