

In This Issue:

- TCEQ Updates
- HRVOC Updates
- EPA Updates
- MACT Updates
- Friendly Reminders
- Did You Know ...

TCEQ Updates

TCEQ has completed a year-long review of its enforcement policies and has finalized a list of more than 60 recommendations, including giving highest priority to violations that result in actual risk or harm, establishing standard penalties for certain violations, issuing field citations for certain non-discretionary violations, developing the best method to accurately use a penalty formula that takes into consideration economic benefits of non-compliance, and collecting unpaid fines. For additional information, see the web site http://www.tceq.state.tx.us/comm_exec/communication/media/01-05Enforcement.html.

On February 9, 2005, TCEQ is scheduled to propose amendments to Chapters 101 that would amend the definition of nonattainment area to be consistent with the federal classifications under the eight-hour ozone standard. The eight-county Houston/Galveston/Brazoria (HGB) area and the nine-county Dallas/Fort Worth (DFW) area would each be classified as moderate, the three-county Beaumont/Port Arthur (BPA) area would be marginal, and the three-county San Antonio area would be nonattainment with a deferred effective date.

Concurrently, TCEQ may propose the following changes to Chapter 116 with regard to nonattainment netting:

- Adopt the federal model for netting triggers and periods, except that the 5 tpy trigger in a serious or severe nonattainment area would be retained,
- For larger major sources in nonattainment areas, eliminate the requirement for netting back to 1992,

- Except for areas that are designated serious or severe, the netting trigger would be 40 tpy and all netting periods would be five years.

Effective December 2, 2004, TCEQ adopted rule changes for emission reduction credits (ERCs) that will allow industries to establish their ERC emissions baseline by selecting any two consecutive calendar years from the ten years preceding the reduction or from a period including or following the most recent emission inventory used in the SIP. The rules also ensure that no discrete emission reduction credits (DERCs) are awarded for curtailment of activity.

On December 3, TCEQ proposed amendments to Chapter 117 for nitrogen oxide (NO_x) emissions in ozone nonattainment areas including:

- Changes to §117.206(b)(1) and (2) for boilers to indicate that these rules would apply only in Collin, Dallas, Denton and Tarrant counties,
- Addition of §117.206(b)(3) for engines which would apply in Collin, Dallas, Denton, Tarrant, Ellis, Johnson, Kaufman, Parker, and Rockwall Counties,
- A partial exemption for cogeneration boilers that recover waste heat from carbon black reactors in the BPA area,
- A ±5% accuracy requirement for totalizing fuel flow meters in §117.213(a),
- Authorization to calculate pilot flame fuel amounts based on manufacturer's design flow rates instead of requiring a separate fuel meter,
- A requirement to calculate emissions from combustion of dilute vapor streams in the HGB area,
- An alternative to allow the use of a single totalizing fuel flow meter for multiple units with a common stack monitored with a continuous emission monitoring system (CEMS),
- An alternative to use monthly fuel use records and a run time meter to monitor diesel engines,
- Addition of a requirement to collect substitute emissions compliance data using the missing data procedures in 40 CFR 75 as well as in §117.213 if a NO_x CEMS or predictive emission monitoring system (PEMS) is off-line,

- A correction to the §117.214(a)(1)(D)(i) equation for calculating ammonia concentration,
- A change to §117.520(c)(2)(A)(ii) to indicate that compliance with §117.214 is required within 60 days after installation of emission monitors as well as emission controls, and
- A change to §117.520(c)(2)(B)(ii) to clarify that electric generating facilities (EGF) which were not in operation prior to January 1, 1997 must certify their system cap level of activity specified in §117.210 within 60 days after the second consecutive third quarter of actual level of activity level data are available or are chosen out of the first five years of operation.

HRVOC Updates

Effective December 23, 2004, TCEQ adopted a cap and trade program for highly reactive volatile organic compound (HRVOC) emissions from sites in the eight-county HGB area [see Chapter 101, Subchapter H, Division 6]. Sites with a vent gas stream or flare that emits, or has the potential to emit, HRVOC are subject to the cap and trade program unless the site's HRVOC emissions from all covered facilities are no more than ten tons per calendar year.

Initially, the full HRVOC emissions cap and trade program applies only in Harris County. Sites in the other HGB area counties are only required to submit a level of activity certification on Form ECT-3H. Sites with a process unit that uses or produces HRVOC must submit Form ECT-3H by April 30, 2005, based on HRVOC production and use during any 12 consecutive months from 2000-2004. In addition, enforceable documentation of the maximum allowable emission rate of HRVOC from the site must be provided.

Sites that are subject to the HRVOC cap and trade program but that do not include a process unit that produces or uses HRVOC, must apply by January 30, 2005 for an allocation based on HRVOC throughput or storage capacity for any 12 consecutive months during 2000-2004.

In addition to the cap and trade program, other new Chapter 115 rules that apply throughout the HGB

area now include a limit of 1,200 pounds of HRVOC per one-hour block period from any flare, vent, pressure relief valve, cooling tower, or any combination at a site. Section 115.725 also specifies that, except for PRV's, each vent stream not controlled by a flare must be tested for HRVOC emissions and must have a continuous monitoring system based on a parameter or parameters that directly affect HRVOC emissions. In addition, PRV's that are not controlled by a flare must have a continuous monitor system sufficient to determine the time, duration and volumetric flow rate for each pressure relief event and the status of the PRV (open, closed, or percentage open).

Written quality assurance plans (QAPs) for flare monitoring do not have to be submitted by April 30, 2005, as was originally proposed. Instead, the QAP must be maintained on-site and, upon written request by the executive director, submitted within 30 days. The new rule also deleted the requirement to complete an independent third-party audit of 50% of the fugitive sources by December 31, 2004. Instead, the independent third-party audit of all fugitive sources must be completed and the results submitted by December 31, 2005. The Houston regional office must be notified at least 30 days before the start of the audit.

EPA Updates

On November 24, 2004 EPA proposed Phase III cooling water intake structure rules that may affect existing facilities with flow rates as low as 50 million gallons per day (MGD). The proposed rule also considers flow thresholds of 100 and 200 MGD. Comments must be received by March 24, 2005.

EPA has proposed new source performance standards (NSPS) and emission guidelines for new and existing "other" solid waste incinerators (OSWI). The proposed rules apply to incinerators burning municipal solid waste (MSW) with a capacity less than 35 tpd, or incinerators at institutional facilities burning institutional waste generated at that facility. MSW and institutional waste are defined in 40 CFR 60.2977 and 60.3078. For further information, see

<http://www.epa.gov/fedrgstr/EPA-AIR/2004/December/Day-09/a26741.htm> .

MACT Updates

In the December 23, 2004 Federal Register, EPA published a direct final action to amend the Hazardous Organic NESHAP (HON) to allow vapor balancing in conjunction with the use of a pressure setting to comply with the storage tank control requirements of the standards.

Friendly Reminders

- Sites that are subject to the HRVOC cap and trade program but that do not include a process unit that produces or uses HRVOC, must apply by January 30, 2005 for an HRVOC allocation.
- ECT-2 Forms for the transfer of allowances needed for compliance must be submitted by January 30.
- Semi-annual reports for gas-fired engines and units with CEMS, PEMS, water-to-fuel or steam-to-fuel ratio monitors in the BPA or DFW nonattainment areas are due January 30.
- Stage II Motor Vehicle Fuel Dispensing Facilities Reports are due January 31.
- For new or reconstructed Reciprocating Internal Combustion Engines (RICE) subject to MACT ZZZZ, performance tests must be conducted by February 2, 2005.
- Annual Waste Summaries that are submitted electronically are due by March 1.
- Texas Tier II/SARA 312 reports are due March 1.
- Submit Initial Notifications for boilers and process heaters subject to MACT DDDDD by March 12.
- Forms ECT-2 or ECT-4 to report purchased NO_x allowances are due at least 30 days before deposit into the compliance account (i.e., by

March 1 for allowances to be used on ECT-1 Forms due March 31).

- Annual compliance reports (ECT-1) for sources subject to the NO_x Mass Emissions Cap and Trade Program are due March 31.
- Reports summarizing all uses of PBR §106.261 during the calendar year (and not previously registered) are due March 31.
- Final control plans required by §117.216 are due by March 31.
- Emission inventories are due March 31 unless otherwise specified by TCEQ.
- Install totalizing fuel flow meters, run time meters, and emissions monitors on units subject to §§117.213 and 117.214 by March 31.

Did You Know . . .

Newly planned lower limits for SO₂ and NO_x in southern California may eventually affect what is considered BACT elsewhere.

According to a January 24, 2005, article in the Austin American-Statesmen, City of Houston environmental officials can now bring civil lawsuits against industrial plants inside Houston's city limits if those plants break air pollution laws. Previously, such cases had to be referred to TCEQ enforcement, except in the case of imminent harm to the environment or public health.