

TCEQ Air Rules – Opportunity for Informal Comment

TCEQ is taking informal comment on its proposed major revision to its air quality rules for Oil and Gas Sites through Friday, April 30th. This is an extension by a couple of weeks of the original April 16th deadline. Any comments submitted by that date have a chance to be incorporated into the new rules before they are formally proposed to the TCEQ Commissioners by the TCEQ staff. However, the earlier comments are submitted, the more likely it will be that they can be worked into the draft. Comments may be submitted informally by email to Anne Inman, P.E. at ainman@tceq.state.tx.us. Although the comments may be informal, it will help your case to support your recommendation with a justification and, if available, any data you are willing to provide. Also, if you think the current wording is unclear, please be sure to propose an alternative wording that you think is clearer.

TCEQ Air Rules – Substance of Rules

The public had an opportunity to review the text of the new proposed rules with TCEQ staff at a stakeholder meeting on April 8th. If adopted, the new rules will dramatically increase the interaction between operators and the TCEQ on air quality issues.

Registration

The new rules will apply to new Oil and Gas Sites (OGS) and those that are modified after the rules become effective.

Even so, TCEQ believes the new rules require operators of Oil and Gas Sites to register each existing site with the TCEQ and indicate whether the site is operating under a Permit by Rule (PBR) or an historical exemption, and, if so, which kind. If you do not have each wellsite you currently operate registered with TCEQ, this requirement may significantly affect you.

In fact, TCEQ is currently requesting companies, including any affiliated subsidiaries, that own and/or operate leases and/or facilities associated with Barnett Shale oil and gas production, transmission, processing, and related activities to provide air emissions-related information for calendar year 2009. The completed and certified inventory data must be remitted to the TCEQ by May 10, 2010. *See* <http://www.tceq.state.tx.us/implementation/air/industei/psei/psei.html#barnett> for more information about the special inventory.

Daisy-Chain Issue

Depending on the size, emission levels and location of your Oil and Gas Sites, you will have to get one of the following: a Permit By Rule (PBR), a Standard Permit, a permit under New Source Review, a permit under the Prevention of Significant Deterioration program or a permit under the Non-Attainment New Source Review program. Each of these permits requires an increasing amount of permitting and monitoring burden.

Most Oil and Gas Sites will be eligible for a PBR or the Standard Permit. The dividing line is 250 tons per year of nitrogen oxides (NO_x) or carbon monoxide (CO) and 25 tons per year of any other air contaminant, which will typically be volatile organic compounds (VOCs), particulate matter (PM), and sulfur compounds (H₂S and SO₂).

However, in making this determination, all of your sites within a quarter mile of each other are combined. So, if you have a field developed on 160-acre spacing with 1,320 feet between wells, all of your wells in that field on contiguous acreage would be considered together to determine the permitting threshold.

This is called the “daisy-chain” issue. Much of the questioning at the stakeholder meeting was devoted to trying to assess the impact of this aspect of the rules, including the extent to which a change at one site triggers or causes the nearby sites to come under the new rules. The regulatory burden of the PBR is less than that of the Standard Permit, and the aggregation of well sites increases the chances that you might need a Standard Permit or more.

Set-back requirement

Facilities at an Oil and Gas Site can't be within 50 feet of a property line or a receptor, which is generally defined as a home, school or church. If the occupant of the surface is also your lessor, you don't have to count the lessor's receptors, because the lessor is presumed to have agreed to the placement of the facilities.

The set-back distance is measured at the time the particular piece of equipment is installed. If the surface occupant's structures later encroach on the oil and gas facilities, the oil and gas facilities are “grandfathered”. But the operator needs to demonstrate who was there first. This requirement suggests that well files should be documented with information about the site layout each time you install a piece of equipment or whenever you notice a new encroachment by a surface occupant.

De Minimis

The new rule proposes to authorize certain changes at Oil and Gas Sites that cause only *de minimis* increases in emissions without triggering all the requirements of the new rule. The TCEQ is specifically seeking comments on what those changes should be from an operational standpoint, including whether changes besides additions of piping and fugitive components should be included within the *de minimis* provision.

Records, Sampling and Monitoring

Another hot topic at the stakeholder meeting was the amount of recordkeeping, sampling and monitoring requirements that the new rules proposed for Oil and Gas Sites. Highlights: oil/gas/condensate sampling, engine exhaust sampling, control device sampling, combustion device sampling, and continuing monitoring of same.

More issues

The above issues are some of the many issues raised by operators and members of the public who attended the stakeholder meeting. Other issues are potentially more important from an operational standpoint, but these issues, along with the requirement to paint tanks white, seemed to generate much of the discussion.

TCEQ Air Rules – Projected Rulemaking Schedule

The TCEQ staff anticipates the following rulemaking schedule:

April 15	Summary of stakeholder meeting to be posted on TCEQ website
April 30	End of informal comment period
May 19	Commissioners consider staff recommendation to propose rule for public comment
June – first week	Publication of draft rule in the Texas Register for public comment
June 25	Public hearing on the proposed rule
July 5	End of public comment period
October 15	Commissioners consider final rule and public comment

As indicated above, the staff invites informal comment prior to April 16th. If you submit informal comments and don't find your suggestions reflected in the published rule, be sure to submit formal comments after the draft rule is published. The staff is required to explain to the Commissioners why it did or did not agree with comments submitted during the formal comment period.

TCEQ Air Rules – Additional Information

The March 23rd announcement about the rulemaking is available at the TCEQ website at the following location:

http://www.tceq.state.tx.us/permitting/air/announcements/nsr_announce_3_25_10.html

Future announcements about the progress of the rulemaking will be posted on the TCEQ website at this location:

http://www.tceq.state.tx.us/nav/advise/air_permitting_index.html