

Air Permitting

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Background

- Lawsuit between Business Coalition for Clean Air (BCCA) and EPA
- EPA agreed to submit final actions (Federal Register notices) on outstanding rules per schedule in consent decree and settlement agreement
- EPA issued four notices late 2008 and 2009
- TCEQ agreed to revise rules based on schedule



Four Rule Packages

- Public Participation
- Qualified Facilities
- Flexible Permits
- NSR Reform



Public Participation

- Rules submitted to EPA in October 1999, response from EPA came in November 2008, final decision expected by October 29, 2010
- Revised rules
 - Adopted by TCEQ on June 2, 2010
 - Requires 2nd notice for minor NSR applications received on or after June 24, 2010
 - Draft permit, Air Quality Analysis, and Preliminary Determination Summary posted to the web
Fall 2010



Qualified Facilities

- Rules submitted to EPA in March 1996, response from EPA came in September 2009, disapproval of rules on April 14, 2010. Disapproval challenged in U.S Court of Appeals, 5th Circuit.
- Revised rules
 - Clarify federal applicability
 - Make argument for no backsliding
 - Proposed March 30, 2010, scheduled for adoption September 15, 2010



Flexible Permits

- Incentive for grandfathered facilities to become permitted
- Allows for emissions caps at a site rather than individual limits for individual pieces of equipment
- Nothing in federal law prohibits this concept
- Over control some equipment while not adding additional controls to other equipment as long as total emissions are under cap



Flexible Permits

- Caps based on what emissions would be if BACT was applied to all equipment under the cap
- Permits are protective of public health
- Permits do not allow for circumvention of federal law



Flexible Permits

- Large reductions
- Example – Coal and pet coke fired power plant reductions
 - 10,330 tpy NO_x
 - 795 tpy PM/PM₁₀
 - 25,803 tpy SO₂



Flexible Permits

- Rules submitted to EPA in November 1994, response from EPA came in September 2009, disapproved on July 15, 2010. Disapproval challenged in U.S Court of Appeals, 5th Circuit.
- Revised rules
 - Clarify federal applicability
 - PAL-like monitoring, testing, recordkeeping, and reporting requirements
 - Eliminate 9% insignificant emissions factor
 - “Source caps” or “site wide caps”
 - Shutdown duration that triggers a change in caps revised from 12 months to 6 months
 - Delayed effective date
 - Proposed June 16, 2010, scheduled for adoption December 14, 2010



NSR Reform

- Rules submitted to EPA in June 2005 and February 2006, response from EPA came in September 2009, disapproved most of rules on August 31, 2010
- EPA took final action on existing rules August 31, 2010
 - Disapproved Texas BACT definition
 - Disapproved Pollution Control Projects (PCP) Standard Permit (SP)
- Revised rules part one
 - Added back references to federal BACT
 - Adopted June 2, 2010
 - EPA approved this August 31, 2010
- Revised rules part two
 - Clarify/correct/incorporate by reference PAL requirements
 - Address 1-hour/8-hour ozone issue
 - Proposed August 11, 2010 and scheduled for adoption in early 2011
 - PCP SP proposed August 27, 2010 and scheduled for adoption in early 2011



Discussions with EPA

- Bi-weekly teleconferences with EPA
- Other meetings with Region 6, EPA HQ, and OAQPS
- Flexible permits
 - How to “de-flex” a permit



Title V Objections

- 42 companies have received objections
- Three Title V permits 'federalized'...Flint Hills rescinded
- TCEQ expects more objections and more 'federalization'



Questions?

