



CE Newsletter

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Offices in Amarillo, Dallas, and Houston

1st Quarter 2008

TCEQ REISSUES STORM WATER CONSTRUCTION PERMIT

The TCEQ is issuing a renewal of TPDES Construction General Permit (CGP), Permit No. TXRI50000, issued March 5, 2003, which authorizes discharges from construction sites into surface water in the state. The general permit specifies which construction activities must obtain permit coverage, which are eligible for waivers, and which may be required to obtain individual permit coverage. The general permit specifies that where discharges will reach Waters of the United States, a storm water pollution prevention plan (SWP3) must be developed and implemented unless certain conditions are met. The general permit provides authorization for discharges from small construction sites, according to federal Phase II storm water regulations finalized in the Federal Register of December 8, 1999.

The principal changes to the existing CGP include:

- Revision of the application fee and annual fee. No annual billing of Water Quality Fee. New application fees must be paid to obtain a new permit and to renew an existing permit: \$325 for paper Notice of Intent (NOI). If you sign

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EPA APPROVES TCEQ VOC RULES

On February 27th, the EPA approved control measures adopted by the State of Texas on the following dates: September 7, 2001, July 18, 2002, January 28, 2003, November 7, 2003, and December 17, 2004. The effect of this action is to finalize the proposed approval of these measures published on September 28, 2006 in the Federal Register (71 FR 56920) because they enhance the Texas VOC Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) by improving volatile organic compound (VOC) emission controls in Texas.

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TCEQ PROPOSES AMENDMENTS TO ROCK CRUSHER STANDARD PERMIT

On January 30th, the TCEQ proposed amendments to the standard permit for temporary rock crushers and temporary concrete crushers. These amendments will provide consistency between the current standard permit for temporary crushers and the new standard permit for permanent crushers. Owners or operators can continue to operate under the existing permit by rule until the facilities are modified. However, owners and operators of facilities that are not modified may register under the new standard permit. Once the new permit is adopted, authorization under the standard permit will be granted for new facilities or modification of existing facilities. For those facilities that do not qualify for the standard permit, site-specific permitting will remain an option. A public meeting on the proposed standard permits will be held on March 18, 2008. Comments may be mailed to Blake Stewart, Texas Commission on Environmental Quality, Office of Permitting, Remediation, and Registration, Air Permits Division, MC 163, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to 512-239-1070.

TCEQ PROPOSES CHANGES TO DRY CLEANER RULES

On January 11th, the TCEQ proposed new rules relating to the environmental regulation and remediation of dry cleaning locations. The proposed rules implement the following provisions of HB 3220:

- Establishment of new registration requirements for owners and preceding owners of real property on which a dry cleaning facility or drop station is or was located, who wish to obtain eligibility for Dry Cleaning Facility Release Fund (Fund) benefits;
- Provision for an owner of a non-participating drop station to move the business to another location and retain the drop station's non-participating status; and
- Prohibition against the use of perchloroethylene at sites where the commission has completed corrective action.

In addition, certain rule amendments are being proposed to facilitate more efficient administration and enforcement of THSC Chapter 374. For more information visit <http://www.tceq.state.tx.us/rules/prop.html>.



TCEQ REISSUES STORM WATER CONSTRUCTION PERMIT CONT'D

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and submit the NOI on paper, it is a “paper NOI.”, \$225 for online ePermits NOI. The NOI must be completed, signed, and submitted online to qualify.

- Revision of the definition of “operator” and clarification of who must submit a notice of intent (NOI).
- Clarification of requirements related to sites regulated by the TCEQ’s Edwards Aquifer rules.
- Clarification that on-site disposal of concrete truck wash out water from off-site production facilities may be authorized by this general permit provided that certain requirements are met.
- Replacement of effluent limits for storm water discharges associated with concrete batch plants supporting construction sites with benchmark monitoring requirements, best management practices, and SWP3 requirements, consistent with other TPDES General Permits for similar discharges.
- Revision of the effective date for provisional authorization when submitting a paper NOI to seven (7) days.

The permit will take effect March 5, 2008. Existing permittees need to renew by June 3, 2008. The permit is good through March 5, 2013. For more information visit: http://www.tceq.state.tx.us/permitting/water_quality/stormwater/TXR15whattodo.html.

EPA ISSUES EXEMPTION FOR METHYL BROMIDE PHASEOUT

On December 28th, the EPA finalized an exemption to the phaseout of methyl bromide to meet the needs of 2008 critical uses. Specifically, EPA is authorizing uses that qualify for the 2008 critical use exemption and the amount of methyl bromide that may be produced, imported, or supplied from existing pre-phaseout inventory for those uses in 2008. EPA is taking action under the authority of the Clean Air Act to reflect recent consensus decisions taken by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the 18th Meeting of the Parties. This rule was effective on December 28, 2007.

CE News is now only available by E-Mail!!!

Please let us know if you are interested in receiving our newsletter by e-mail.

You can e-mail me at ernest@caldwelleng.com to receive our newsletter.



EPA REVISES NSR RECORDKEEPING RULES

On December 21st, the EPA finalized proposed revisions to the regulations governing the major new source review (NSR) programs mandated by parts C and D of title I of the Clean Air Act (CAA). These changes clarify the “reasonable possibility” recordkeeping and reporting standard of the 2002 NSR reform rules. The “reasonable possibility” standard identifies for sources and reviewing authorities the criteria under which an owner or operator of a major stationary source undergoing a physical change or change in the method of operation that does not trigger major NSR permitting requirements must keep records. The standard also specifies the recordkeeping and reporting requirements on such sources. As noted in the proposal, the U.S. Court of Appeals for the DC Circuit in *New York v. EPA*, 413 F.3d 3 (DC Cir. 2005) (New York) remanded for the EPA either to provide an acceptable explanation for its “reasonable possibility” standard or to devise an appropriately supported alternative. To satisfy the Court's remand, the EPA is clarifying what constitutes “reasonable possibility” and when the “reasonable possibility” recordkeeping requirements apply. This final rule was effective on January 22, 2008. For further information contact Ms. Lisa Sutton at (919) 541-3450 or sutton.lisa@epa.gov.

EPA PROPOSES TRI AMENDMENT

On March 6th, the EPA proposed to amend the Toxics Release Inventory (TRI) regulations to make certain updates and corrections. EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the TRI to reflect the Office of Management and Budget (OMB) 2007 NAICS revision. Facilities would be required to report to TRI using 2007 NAICS codes beginning with TRI reporting forms that are due on July 1, 2009, covering releases and other waste management quantities for the 2008 calendar year. EPA is also proposing to make corrections to the list of NAICS codes subject to reporting under TRI that was published on June 6, 2006, in the final rule adopting NAICS for TRI reporting and to correct a longstanding typographical error in the regulatory text. Written comments must be received by April 7, 2008. For further information contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424-9346 or <http://www.epa.gov/epaoswer/hotline/>.

EPA ISSUES SW-846 UPDATE

On January 3rd, the EPA provided notice of the availability of “Final Update IV” to the Third Edition of the manual, “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA publication SW-846. Final Update IV contains new and revised analytical methods that may be used in monitoring or complying with the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. For further information contact Kim Kirkland at (703) 308-8855 or kirkland.kim@epa.gov



EPA ISSUES NEW NESHAP RULES

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Iron and Steel Foundries	2/7/08	Final	EPA issued amendments to the NESHAP for iron and steel foundries. These final amendments add alternative compliance options for cupolas at existing foundries and clarify several provisions to increase operational flexibility and improve understanding of the final rule requirements.	Mr. Phil Mulrine (919) 541-5289 mulrine.phil@epa.gov
Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities	1/10/08	Final	The EPA added two regulations that address the facilities contained in this area source category. The first includes requirements for bulk distribution facilities, i.e., gasoline distribution bulk terminals, bulk plants, and pipeline facilities. The second includes requirements for loading of storage tanks at gasoline dispensing facilities. The EPA also incorporated by reference four test methods. This action also finalizes their decision not to regulate the above noted facilities under Clean Air Act section 112(c)(6). These final rules were effective on January 10, 2008.	Mr. Stephen Shedd (919) 541-5397 shedd.steve@epa.gov
Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities	3/7/08	Final rule; correction	The EPA corrects certain text of the final rules entitled NESHAP: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities." The final rules were published in the Federal Register on January 10, 2008.	Mr. Stephen Shedd (919) 541-5397 shedd.steve@epa.gov
Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing	12/26/07	Final	Each of these three final emissions standards reflects the generally available control technology or management practices used by sources within the respective area source category. This final rule was effective on December 26, 2007.	Mr. Bill Neuffer (919) 541-5435 Neuffer.Bill@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES NEW NESHAP RULES

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Iron and Steel Foundries Area Sources	1/2/08	Final	The requirements for the two area source categories are combined in one subpart. The final rule establishes different requirements for foundries based on size. Small area source foundries are required to comply with pollution prevention management practices for metallic scrap, the removal of mercury switches, and binder formulations. Large area source foundries are required to comply with the same pollution prevention management practices as small foundries in addition to emissions standards for melting furnaces and foundry operations. The final standards reflect the generally achievable control technology and/or management practices for each subcategory. This final rule was effective on January 2, 2008.	Mr. Conrad Chin (919) 541-1512 chin.conrad@epa.gov
Electric Arc Furnace Steelmaking Facilities	12/28/07	Final	EPA issued national emission standards for electric arc furnace steelmaking facilities that are area sources of hazardous air pollutants. The final rule establishes requirements for the control of mercury emissions that are based on the maximum achievable control technology and requirements for the control of other hazardous air pollutants that are based on generally available control technology or management practices. This final rule was effective on December 28, 2007.	Phil Mulrine Sector Policies (919) 541-5289 mulrine.phil@epa.gov
Hospital Ethylene Oxide Sterilizers	12/28/07	Final	EPA is issuing national emissions standards for new and existing hospital sterilizers that emit hazardous air pollutants and are area sources within the meaning of Clean Air Act section 112(a)(2). The final rule is based on EPA's determination as to what constitutes the generally available control technology or management practices for the hospital sterilizer area source category.	David Markwordt (919) 541-0837 markwordt.david@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES NEW NESHAP RULES

The EPA recently issued proposed and final NESHAP rules governing emission sources as shown in the following table:

Sources Covered	Date Issued	Proposed/ Final	Description	EPA Contact
Reciprocating Internal Combustion Engines	1/18/08	Final	EPA is promulgating new source standards of performance for stationary spark ignition internal combustion engines. EPA is also promulgating national emission standards for hazardous air pollutants for new and reconstructed stationary reciprocating internal combustion engines that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions. This final rule is effective on March 18, 2008.	Jaime Pagán (919) 541-5340 pagan.jaime@epa.gov
Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	1/9/08	Final	EPA has listed "Paint Stripping", "Plastic Parts and Products (Surface Coating)," and "Autobody Refinishing Paint Shops" as area sources of hazardous air pollutants (HAPs) that contribute to the risk to public health in urban areas under the Integrated Urban Air Toxics Strategy. This final rule includes emissions standards that reflect the generally available control technology or management practices in each of these area source categories. "Plastic Parts and Products (Surface Coating)" has been renamed "Miscellaneous Surface Coating," and "Autobody Refinishing Paint Shops" has been renamed "Motor Vehicle and Mobile Equipment Surface Coating" to more accurately reflect the scope of these source categories. This final rule is effective on January 9, 2008.	Mr. Warren Johnson (919) 541-5124 Johnson.warren@epa.gov

These NESHAPs would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT).



EPA ISSUES “REASONABLE POSSIBILITY” CLARIFICATION UNDER NSR

On December 14, 2007, the EPA issued a final rule that provides additional explanation and more detailed criteria to clarify the “reasonable possibility” recordkeeping and reporting standard of the 2002 New Source Review (NSR) reform rules. The “reasonable possibility” standard establishes for sources and reviewing authorities the criteria for determining when recordkeeping and reporting are required for a modification that does not trigger major NSR. The standard also specifies the recordkeeping and reporting requirements for such sources. This final action will require recordkeeping and reporting when the projected increase in emissions to which the “reasonable possibility” test applies equals or exceeds 50 percent of the Clean Air Act’s NSR significance levels for any pollutant. NSR significance levels are pollutant-specific threshold emission rates (tons per year). If a project results in an emissions increase of a regulated NSR pollutant that equals or exceeds the significance level for that pollutant, the increase is a “significant emissions increase” and NSR permitting requirements would apply. The emissions increase to which the reasonable possibility trigger is applied is calculated as the difference between the project’s (1) baseline actual emissions and (2) sum of projected actual emissions and emissions attributable to an independent factor (such as demand growth). For more information visit http://www.epa.gov/nsr/documents/Fact%20Sheet_RP_final.pdf.

EPA APPROVES TCEQ VOC RULES CONT’D

(Continued from page 1)

The Texas rules:

- Add new requirements to control VOC emissions from industrial wastewater systems in El Paso County, the Beaumont/Port Arthur and Houston/Galveston 8-hour ozone standard nonattainment areas, and four counties in the Dallas/Fort Worth 8-hour ozone standard nonattainment area: Collin, Dallas, Denton, and Tarrant Counties, and;
- Amend requirements to identify and correct emissions from VOC leaks from facilities that refine petroleum or process natural gas, gasoline or petrochemicals in these areas and from petroleum refineries in Gregg, Nueces, and Victoria Counties.

This action is being taken under Section 110(l) and part D of the Clean Air Act. This rule will be effective on March 28, 2008.



EPA ISSUES E-MANIFEST UPDATE

On February 26th the EPA announced the availability of additional information on the electronic manifest (e-Manifest) project. Specifically, EPA's Office of Solid Waste and Emergency Response (OSWER) has made significant progress on the e-Manifest project since the publication of the April 18, 2006 public notice, which announced and requested comment on their intention to develop a centralized web-based information technology (IT) system that would be hosted on EPA's IT architecture. The EPA received strong support in response to the April 2006 public notice to establish a national web-based system funded through user-fees. In addition, commenters generally supported their position that use of e-Manifests should be at the election of the users rather than mandatory. However, some commenters expressed concern that an optional system would create dual paper and electronic systems. Furthermore, industry and state comments in response to their position to allow confidential business information (CBI) claims for e-Manifests differed. Therefore, the EPA is soliciting additional comment on EPA's position on these two issues. Comments must be received on or before April 11, 2008. For further information contact Richard LaShier at (703) 308-8796, lashier.rich@epa.gov.

EPA RELAXES RULES FOR OILY MATERIALS

On January 2nd, the EPA revised its hazardous waste management regulations under RCRA to promote the environmentally sound recycling of oil-bearing hazardous secondary materials generated by the petroleum refining industry. The EPA amended an existing exclusion from the definition of solid waste for oil-bearing hazardous secondary materials when they are processed in a gasification system at a petroleum refinery for the production of synthesis gas. The EPA issued the exclusion so that the gasification of these materials will have the same regulatory status (they are all excluded from the definition of solid waste under RCRA) as oil-bearing hazardous secondary materials that are reinserted into the petroleum refining process. The rule was effective on Feb. 1, 2008.

EPA PROPOSES TO APPROVE HGB AREA NON-ATTAINMENT STATUS

On December 27th, the EPA proposed to grant a request by the State of Texas to voluntarily reclassify the Houston/Galveston/Brazoria (HGB) ozone nonattainment area from a moderate 8-hour ozone nonattainment area to a severe 8-hour ozone nonattainment area. This request was made in a letter from Governor Rick Perry to the EPA Administrator on June 15, 2007. In addition to the reclassification proposal, EPA is also proposing and taking comment on a range of dates from December 15, 2008 to April 15, 2010 for the State to submit a revised State Implementation Plan (SIP) addressing the severe ozone nonattainment area requirements of the Clean Air Act (CAA). The CAA mandates that the EPA grant a voluntary reclassification when requested by a State. For further information contact Carl Young at (214) 665-6645 or young.carl@epa.gov.



EPA ISSUES GROUND WATER STUDY GUIDANCE

On January 16th, the EPA issued for public comment guidance for conducting prospective ground-water (PGW) studies. This study, which is required by EPA on a case-by-case basis, is conducted in a controlled setting and provides EPA with data for evaluating the impact of legal pesticide use on ground water quality. The PGW guidance document describes how to conduct a PGW monitoring study, milestones for consulting with EPA, and how to report results to EPA. Data generated from these field studies have proven valuable to EPA scientists and risk managers as they are specifically designed to relate pesticide use indicated on the label to measurements of the pesticide and its degradates in ground water used as a source of drinking water. Comments must be received on or before March 17, 2008. For further information contact Betsy Behl at (703) 305-6128 or behl.betsy@epa.gov.

EPA PROPOSES CLARIFICATION TO TSCA RULES

On January 16th, the EPA proposed a clarification under which activated phosphors that are not on the Toxic Substances Control Act (TSCA) section 8(b) Chemical Substance Inventory would be considered to be new chemical substances under TSCA section 5, thus would be subject to the notification requirements under TSCA section 5(a) new chemical notification requirements. In certain letters and other interpretations issued by EPA from 1978 to 2003, it appears that the EPA erroneously indicated that activated phosphors constitute solid mixtures for purposes of the TSCA Inventory, and thus that they were not separately reportable as chemical substances under TSCA section 5(a) new chemical notification requirements. This proposed clarification is necessary because EPA's interpretations in this area have not been consistent. Given this past inconsistency, EPA is seeking comment on its proposed clarification. Comments must be received on or before March 17, 2008. For further information contact the TSCA hotline at (202) 554-1404 or TSCA-Hotline@epa.gov.



EPA TOUGHENS OZONE STANDARDS

On March 12, 2008, EPA strengthened its national ambient air quality standards (NAAQS) for ground-level ozone, the primary component of smog. EPA is revising the 8-hour “primary” ozone standard, designed to protect public health, to a level of 0.075 parts per million (ppm). The previous standard, set in 1997, was 0.08 ppm. Because ozone is measured out to three decimal places, the standard effectively became 0.084 ppm as a result of rounding. EPA is also strengthening the secondary 8-hour ozone standard to the level of 0.075 ppm making it identical to the revised primary standard. EPA decided to strengthen the secondary ozone standard after concluding that the 1997 secondary standard is not adequate to protect public welfare. In addition, EPA is changing the Air Quality Index (AQI) to reflect the new primary standard. The AQI is EPA’s color-coded tool designed for use by state and local authorities to inform the public about daily air pollution levels in their communities.

ATTENDING THE TCEQ ENVIRONMENTAL TRADE FAIR?

The Annual TCEQ Environmental Trade Fair in Austin is scheduled for April 29th–May 1st. Stop by Booth # 611 to meet CE’s Staff and for information about our reception on Tuesday evening at The Melting Pot at 305 East Third Street just west of the Austin Convention Center, April 29th at 5:00 pm. If you have any questions about the TCEQ Trade Fair, please call Ernest Torres at (972) 889-7200 or at ernest@caldwelleng.com

TCEQ Trade Fair Exhibit hours are:

- April 29th 8am-5pm
- April 30th 8am-5pm
- May 1st 8am-11:00am

See you there!



Texas Commission on Environmental Quality
Environmental Trade Fair & Conference
April 29–May 1, 2008
Austin Convention Center



CE Newsletter

Offices in Amarillo, Dallas, and Houston

CE News

- On February 4th, Matt Jones, PhD joined CE in our Houston Office. Matt is a recent graduate with a PhD in Civil Engineering from Texas Tech University. Matt has several years of experience in the environmental field and previously worked for CE back in 2001. He left CE in 2002 and attended Texas Tech where he completed his PhD. We are very pleased to have back with us and he is already busy working several projects for our Houston office.
- Dustin Roberson joined our Amarillo field office in support of our BW Pantex project which is a Department of Energy facility. CE maintains and operates a large groundwater pump and treatment system, performs evaluation and maintenance services for the Pantex Plant Perched Groundwater Interim Stabilization Measure Pump & Treat System. We are excited about having Dustin join our Amarillo team.



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