

Recent Texas Rules Updates
Beveridge & Diamond, P.C., 2007
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This section highlights recent significant TCEQ rule activities and includes proposals and adoptions organized by media. Additional information on TCEQ rule developments is available at: <http://www.tceq.state.tx.us/rules/whatsnew.html> . Because the dates anticipated for Commission consideration, public comment, and Texas Register filing may change from time to time, interested persons are encouraged to confirm these dates.

Air Rules

Adoption

Pre-NSR Permit Construction/Standard Permit Distance Limitations

- Approved: February 21, 2007
- Effective: March 15, 2007

TCEQ initiated this rulemaking to implement changes in Senate Bill 1740, which was passed by the 79th Legislature in 2005. Pursuant to this rulemaking, TCEQ adopted new §116.615(11) which provides that, if a standard permit requires a distance limit, setback, or buffer from other properties or structures, the determination of whether the distance, setback, or buffer is satisfied must be made based on conditions existing at the earlier of: (1) the date new construction, expansion, or modification of a facility begins; or (2) the date any application or notice of intent is initially filed with TCEQ to obtain approval to construct or operate the facility. These new distance limit, setback, and buffer zone provisions were also incorporated into the standard permit for animal feeding operations in §321.43(j)(2)(A).

In response to adverse comments from EPA, TCEQ withdrew proposed revisions that would have allowed an applicant for an NSR permit modification or lesser change to an existing facility to begin construction after the application is submitted and before the permit is issued, to the extent allowed by federal law. Although not adopted in connection with this rule package, TCEQ has indicated that it will work with EPA to identify mutually acceptable methods that would provide greater flexibility regarding the start of construction.

Waste Rules

Adoption

Texas Risk Reduction Rule Amendment

- Approved: February 21, 2007
- Effective: March 19, 2007

With this rulemaking, TCEQ adopted certain changes to Chapter 350, the agency's primary soil and groundwater remediation program, to: (i) correct errors and clarify the rules; (ii) update the rules to reflect new scientific information; (iii) address new issues and implement certain changes, such as allowing the executive director, in certain instances, the discretion to grant site-specific variances to use Chapter 334 petroleum storage tank corrective action regulations in lieu of this chapter; and (iv) support a new electronic data management initiative and expanded use of geographical information system technology.

General Applicability Rules

There are no new significant general applicability rules to report since the [February 2007 issue](#) of Texas Environmental Update.

Water Rules

There are no new significant water rules to report since the [February 2007 issue](#) of Texas Environmental Update.