

Texas Natural Resource Conservation Commission

INTEROFFICE MEMORANDUM

To: New Source Review (NSR) Permit Reviewers Date: April 26, 2000

Thru: Federal New Source Review (FNSR) Team

From: Kurt Kind

Subject: Proposed State Regulation Changes and FNSR

A number of regulation changes are expected this year driven by the State Implementation Plan (SIP) to achieve attainment status for our ozone nonattainment areas. This has prompted questions regarding the impact these changes might have on New Source Review permitting. Areas of concern are addressed below.

Netting

- Any application submitted with netting, that is determined to be administratively complete prior to the date the regulation is adopted by the Commission, will be handled under the rules in place at the time the application was deemed complete (it is not reviewed under the new rules). The same holds true for an application where the applicant nets the emission changes within a proposed project to an increase of zero or less to avoid contemporaneous period netting (i.e., nets the project emission increases to zero).
- Project emission increases and decreases may occur after the adoption of the new regulation but that does not affect the requirements for that application if the project meets the time lines specified in this memo.

Offsets

- Offsets provided to the Texas Natural Resource Conservation Commission prior to the adoption of any new regulation will be considered creditable under the rules in place at that time (not affected by the proposed regulation).
- Companies holding nonattainment permits that require offsets that are not required to be submitted until prior to startup of the modified facilities must provide offsets that are fully creditable at the time they (the offsets) are actually submitted. This quantity may be more than was identified in the application if regulations have been adopted that were not anticipated at the time of the application. Note that we expect permit applicants to make reasonable efforts to accommodate likely SIP requirements when making offsets enforceable if they choose not to supply the offsets prior to permit issuance.

Timing

- Any application not issued or approved within nine months of the adoption date of a new rule will be subject to that rule unless written approval has been received from the Air Permits Division Director.
- Any permit holder requesting an extension of construction for a period more than 18 months after a rule has been adopted must provide a federal applicability analysis (or propose offsets) for the application as required under the new rule.

If you have questions or comments on this memo, contact a member of the FNSR team.