



*Key Permitting Considerations for 2016:
Greenhouse Gas and Ozone*

19th ANNUAL HOT AIR TOPICS CONFERENCE

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GHG PSD Permitting in a Nutshell

- Most process questions now settled
 - *Permitting Authority:* TCEQ, since EPA approval of TCEQ GHG SIP and rescission of EPA GHG PSD FIP on Nov. 10, 2014
 - *Applicability:* A PSD "anyway source" with greater than 75,000 tpy (net) of CO₂e
 - *Application:* Stand-alone or consolidated
 - *Permit:* Stand-alone or consolidated
 - *Contested Case Hearing?:* None
- TCEQ implementation unfolding

TCEQ GHG PSD Permit - Permit Face

1. Facilities covered by this permit shall be constructed and operated as specified in the application for the permit. All representations regarding construction plans and operation procedures contained in the permit application shall be conditions upon which the permit is issued. Variations from these representations shall be unlawful unless the permit holder first makes application to the Texas Commission on Environmental Quality (commission) Executive Director to amend this permit in that regard and such amendment is approved. [Title 30 Texas Administrative Code 116.116 (30 TAC 116.116)]**
8. Maximum Allowable Emission Rates. The total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled "Emission Sources--Maximum Allowable Emission Rates." [30 TAC 116.115(b)(2)(F)]**
14. The permit holder shall comply with all the requirements of this permit. Emissions that exceed the limits of this permit are not authorized and are violations of this permit.**

** Please be advised that the requirements of this general condition may not be applicable to a GHG permit.

EPA Comment Topics

- Permit enforceability
 - "Please verify that all application representations of the GHG permit application are federally enforceable." (EPA, April 6, 2015)
- BACT
 - Output-based limits
 - MSS limits
 - Carbon capture and sequestration (CCS)
 - Technical feasibility/practicability
 - Economic reasonableness
 - EPA GHG PSD for Nuevo Midstream Ramsay Gas Plant requiring partial CCS

TCEQ Greenhouse Gas Voluntary Updates Guidance (2015)

- Project emission increases of greenhouse gases (GHGs) not subject to PSD anyway source permitting do not require authorization or any notification to TCEQ.
 - Keep records to document emission increases of GHGs
 - Voluntarily certify GHG project emissions using the APD-CERT form on STEERs/e-Permitting
 - Emissions that are not required to be authorized will become enforceable
 - Voluntarily update GHG PSD Special Conditions or MAERT emission limits
 - Emissions that are not required to be authorized will become enforceable

What is *De Minimis* for GHGs?

- *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (June 23, 2014).
 - "However, EPA may require an "anyway" source to comply with greenhouse-gas BACT only if the source emits more than a *de minimis* amount of greenhouse gases. As noted above, the Tailoring Rule applies BACT only if a source emits greenhouse gases in excess of 75,000 tons per year CO₂e, but the Rule makes clear that EPA did not arrive at that number by identifying the *de minimis* level. EPA may establish an appropriate *de minimis* threshold below which BACT is not required for a source's greenhouse-gas emissions. We do not hold that 75,000 tons per year CO₂e necessarily exceeds a true *de minimis* level, only that EPA must justify its selection on proper grounds."
- EPA GHG PSD Significant Emission Rate (SER) Rulemaking (March 2016 proposal)

Impact of Revised Ozone Standard on Permitting in a Nutshell

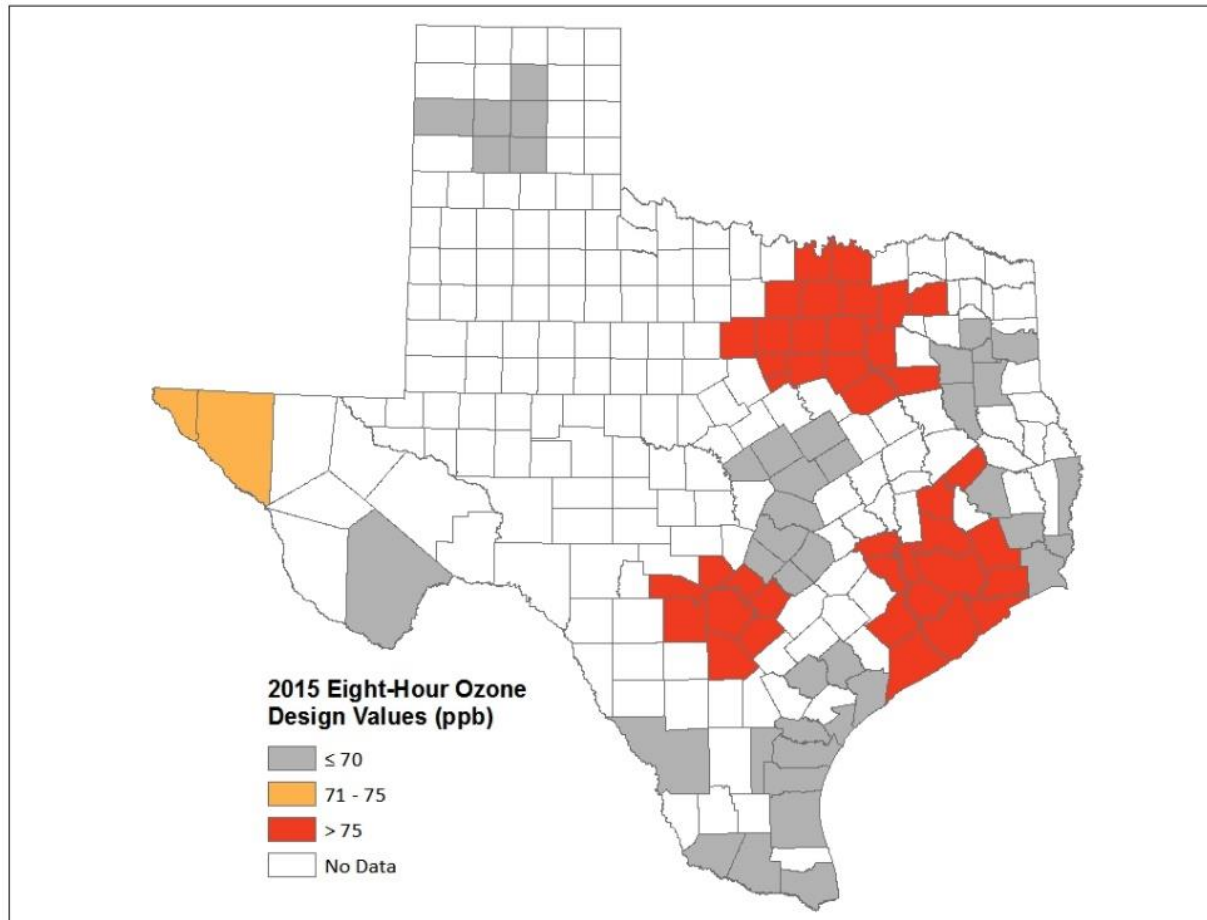
- PSD Permitting
 - Grandfathering for the lucky few (until Dec. 28, 2015)
 - Evolving ozone NAAQS demonstration requirements for revised standard
 - NNSR-like permitting in attainment areas
 - EPA allows "emissions offsets" to cure modeled violations
- NNSR Permitting
 - No grandfathering for designated nonattainment areas (after Oct. 2017, or with 1-yr extension, Oct. 2018)
 - El Paso and San Antonio likely to be newly designated as marginal nonattainment areas
 - HGB and DFW likely to be designated as moderate and wrestle with NNSR anti-backsliding issues under prior NAAQS

New Ozone NAAQS

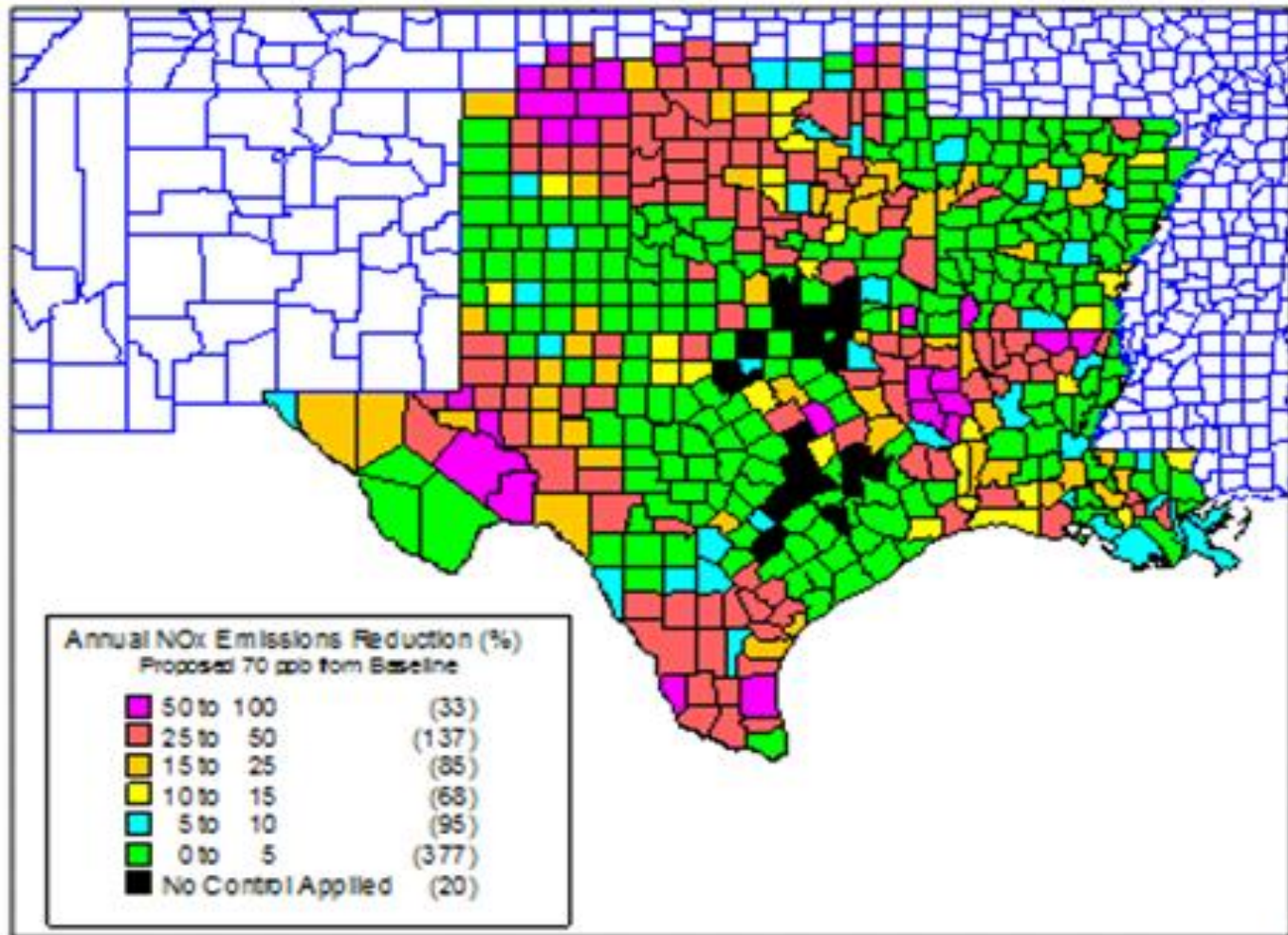
- Revised Primary and Secondary Ozone NAAQS
 - 70 ppb
 - Daily maximum 8-hour average
 - NAAQS met when 3-year average of the annual fourth-highest daily maximum 8-hour average is less than or equal to 70 ppb

New NAAQS Issues

2015 Texas Ozone Levels by CSA



New NAAQS Issues – EPA-modeled NO_x emission reductions for attainment



Final Rule and Designation Schedule

TIMING	EVENT
October 26, 2015	Final Rule Published
December 28, 2015	Effective Date of Final Rule (Grandfathering Date)
October 2016	Texas Submits Nonattainment Area Designation Recommendations (based on 2013-2015 air quality data)
February 2017	EPA Respond to Texas' Recommendations
October 2017 (possible 1 year extension)	EPA Makes Final Area Designations (based on 2014-2016 air quality data)
October 2018	Final Area Designations (Extension) (based on 2015-2017 air quality data)

PSD/NNSR Permitting

- Until December 28, 2015:
 - Apply 75 ppb ozone NAAQS
 - Grandfathering under 40 CFR § 52.21(i)(12)
- After December 28, 2015 until new designations:
 - In existing attainment or unclassifiable/attainment areas, apply PSD and demonstrate that emissions will not cause or contribute to an exceedance of the 70 ppb ozone NAAQS
 - In existing nonattainment areas, apply NNSR and comply with existing nonattainment requirements
- After new designations:
 - In attainment or unclassifiable/attainment areas, apply PSD and demonstrate that emissions will not cause or contribute to an exceedance of the 70 ppb ozone NAAQS
 - In El Paso and San Antonio, NNSR requirements for marginal nonattainment area
 - In HGB and DFW, NNSR requirements for new NAAQS and anti-backsliding for past NAAQS

Evolving PSD NAAQS Demonstration

- PSD air quality analysis
 - Some air quality analysis required if emissions of NO_x or VOC are greater than 100 tpy
 - Still no federal significant impact level (*de minimis* level)
 - Still no FINAL federal 40 CFR Part 51, Appendix W single source impact model (See proposal 80 Fed. Reg. 45,340 (July 29, 2015))
 - Screening techniques
- If air quality analysis shows violation, mitigation is required
 - Mitigation = emissions offsets sufficient to address violation

Past NAAQS Issues – NNSR Anti-Backsliding

Date, Action	NNSR Major Source/Major Modification Thresholds
Houston-Galveston-Brazoria	
Present Status	Severe 25/25 tpy (5 tpy netting trigger)
2Q 2016 (est.) - 84 ppb Redesignation Substitute	Marginal 100/40 tpy
1Q 2017 (est.) - Bump-up to Moderate, 75 ppb	Moderate 100/40 tpy
1Q 2019 (est.) - Bump-up to Serious, 75 ppb [if failure to attain & 75 ppb retained]	Serious 50/25 tpy (5 tpy netting trigger)

Past NAAQS Issues – NNSR Anti-Backsliding

Date, Action	NNSR Major Source/Major Modification Thresholds
Dallas-Fort Worth	
Present Status	Serious – 50/25 tpy (5 tpy netting trigger) [Moderate for Wise County]
2Q 2016 (est.) - Redesignation Substitute	Moderate – 100/40 tpy
1Q 2019 (est.) - Bump-up to Serious, 75 ppb [if failure to attain & 75 ppb retained]	Serious – 50/25 tpy (5 tpy netting trigger)

Q&A

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