

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** June 11, 2010
Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director
From: Richard A. Hyde, P.E., Deputy Director
Office of Permitting and Registration
Docket No.: 2010-0568-RUL
Subject: Commission Approval for Proposed Rulemaking
Chapter 106, Permits by Rule
Thermoset Resin Permit by Rule (PBR) Repeal
Rule Project No. 2010-012-106-PR

Background and reason(s) for the rulemaking:

The proposed rule change would repeal the Thermoset Resin Facilities PBR in Chapter 106 that will be superseded by a new thermoset resin air quality standard permit. The recently-developed air quality standard permit, once issued, will be a streamlined alternative to authorization using a case-by-case new source review permit. The standard permit was developed because of the current PBR's underestimation of styrene emissions, coupled with the TCEQ Toxicology Division's 2000 decision to lower styrene's effects screening levels (ESL). The proposed change to Chapter 106 is necessary to ensure that new and modified thermoset resin facilities use the most technically appropriate and protective method of authorization.

Scope of the proposed rulemaking:

- A) **Summary of what the rulemaking will do:** The proposed changes would repeal §106.392, Thermoset Resin Facilities. The proposed rule change would be adopted only if the associated thermoset resin standard air permit is issued by the commission.
- B) **Scope required by federal regulations or state statutes:** This project is not in response to any federal regulations or any specific state statutes.
- C) **Additional staff recommendations that are not required by federal rule or state statute:** None.

Statutory authority:

The repeal is proposed under the Texas Health and Safety Code, Texas Clean Air Act, §§382.002, Policy and Purpose; 382.011, General Powers and Duties; 382.012, State Air Control Plan; 382.017, Rules; 382.051, Permitting Authority of Commission; Rules; 382.05196, Permits by Rule; and 382.057, Exemption. The repeals would also be proposed under the commission's general authority under Texas Water Code, §§5.102, General Powers; 5.103, Rules; and 5.105, General Policy.

Effect on the:

- A) **Regulated community:** The proposed rule change would affect the authorization of new or modified thermoset resin facilities. If the proposed changes are approved, construction or modification of this type of facility would require that the owner or operator use the thermoset resin air quality standard permit (or a case-by-case permit) for authorization, instead of the existing PBR. This could result in increased costs and controls for these projects, because the new air quality standard permit includes more rigorous technical requirements than the existing PBR. Thermoset resin facilities authorized under §106.392 prior to the effective date of the rule

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change would continue to be authorized under the version of the PBR that was in effect at the time the facility registered for the PBR. Proposed thermoset resin standard permit limits will require sites to raise or install stacks and more closely evaluate styrene fugitive emissions in their operations. The proposed thermoset resin standard permit stack requirements may have a significant one-time cost (estimated at \$16,000- \$69,000 per facility). This cost would depend on the height of the stack and whether or not the stack would need to be self-supported. In addition, a \$900 registration fee would be required to claim the thermoset resin standard permit, which is higher than the registration fee for the corresponding PBR (\$100 for small businesses and \$450 otherwise).

B) Public: The public would benefit from decreased instances of odor nuisance issues, as the result of improved air quality in the vicinity of thermoset resin facilities.

C) Agency programs: There would be no significant impact on agency programs or operations.

Stakeholder meetings:

No stakeholder meetings on this specific proposal have been held; however, the Air Permits Division has held four stakeholder meetings on the thermoset resin air quality standard permit that would replace the PBR affected by this proposal, and at those meetings stakeholders were made aware of the anticipated repeal of the PBR.

Potential controversial concerns and legislative interest:

The proposed changes may generate comments from owners or operators of thermoset resin facilities who feel that the requirements of the thermoset resin air quality standard permit would be more burdensome than the PBR that is proposed for repeal. In the past, the stakeholder participants generally did not support the proposed standard permit, but offered no solution to the underestimated styrene emissions found in the current PBR. The thermoset resin standard permit stakeholder participants have been critical of the styrene ESL that was thoroughly researched by the TCEQ Toxicology Division and expressed that they would rather keep the current PBR instead of using the proposed standard permit. They also expressed concerns about the higher stack requirements.

Will this rulemaking affect any current policies or require development of new policies? No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, it will reduce the effectiveness and utilization of the proposed thermoset resin standard permit. The standard permit contains more protective and up-to-date requirements for thermoset facilities. As an alternative to repealing §106.392, the commission could leave it in place as it currently exists, although this would undermine the objectives of the proposed standard permit.

Key dates in the proposed rulemaking schedule:

Anticipated proposal date:	June 30, 2010
Anticipated <i>Texas Register</i> publication date:	July 16, 2010
Public hearing date (if any):	August 9, 2010
Public comment period:	July 16, 2010- August 16, 2010
Anticipated adoption date:	January, 2011

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