



Texas Commission on Environmental Quality


INTEROFFICE MEMORANDUM

To: Area Directors
Region Directors
Air Section Managers

Date: January 14, 2008

Thru:  Jennifer A. Sidnell, Director
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Richard Hyde, Director 
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From: Chance Goodin, Air Liaison
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Subject: §101.222(h) Planned Maintenance, Startup, Shutdown (MSS) Application
Schedule according to Standard Industrial Classification (SIC) code

Question

What is the applicable deadline for submittal of an MSS application when a regulated entity has multiple SIC codes?

Answer

30 TEX. ADMIN. CODE §101.222(h) describes the timeline for authorizing planned MSS emissions or opacity activities for regulated entities by specific SIC code. The intent of this MSS application schedule is to incorporate into the regulated entity's authorization (SIC-specific) MSS activities that will no longer be eligible for an affirmative defense.

The SIC code schedule in §101.222(h) does not contemplate regulated entities with multiple SIC codes for the different facilities that comprise the regulated entity as a whole. For reference, a *facility* as defined in the rule is "a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source..." *Facility* as defined has one SIC code, but a regulated entity may have many SIC codes due to multiple facilities.

The TCEQ would prefer that applicable responsible parties submit MSS applications for the entire site; however, this is not required by rule. Therefore, owners/operators of regulated entities which include facilities with more than one of the SIC codes in §101.222(h) will be in compliance if they file applications to authorize emissions from planned MSS activities according to one of the following two options:

1. An application for planned MSS for all facilities is submitted by the earliest date for the applicable SIC codes listed in the schedule; or
2. An application for planned MSS for facilities subject to the earliest SIC code that falls in the schedule and subsequent application(s) for remaining facilities by the applicable deadline for the remaining SIC code(s).

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