

Docket No. 2009-0845-RUL

Al Armendariz, Ph.D., Regional Administrator
U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Dear Dr. Armendariz:

On February 10, 2010, the Texas Commission on Environmental Quality (Commission) repealed 30 Texas Administrative Code (TAC) Chapter 101, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 8, Clean Air Mercury Rule, Sections 101.601 and 101.602; amended 30 TAC Chapter 122, Federal Operating Permits, Subchapter A, Definitions, Sections 122.10, and 122.12, and Subchapter B, Permit Requirements, Section 122.120; and repealed 30 TAC Chapter 122, Federal Operating Permits, Subchapter E, Acid Rain Permits, Clean Air Interstate Rule, Clean Air Mercury Rule, Sections 122.440, 122.442, 122.444, 122.446, and 122.448, and adopted the withdrawal of the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule, which was previously adopted by the Commission on July 12, 2006. The amended and repealed rules, and the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule were originally submitted to the United States Environmental Protection Agency (EPA) by letter dated August 3, 2006. The EPA has not yet acted on those submittals.

Because the federal Clean Air Mercury Rule, cited in Texas Health and Safety Code, Section 382.0173, promulgated by House Bill 2481, 79th Texas Legislature, 2005, was vacated by the D.C. Court of Appeals, and is no longer an enforceable federal requirement, the corresponding state rules and the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule are no longer applicable. With the repeal of the Texas rules that implemented CAMR, the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule, which incorporated the repealed rules, is also being withdrawn.

Enclosed are the public hearing certification, a complete record of the public hearing, and the accompanying order.

Sincerely,

Bryan W. Shaw, Ph.D.
Chairman

BG/AB

Enclosures

cc: The Honorable Rick Perry, Governor of Texas
Mr. Toby Baker, Office of Budget, Planning and Policy, Office of the Governor
Mr. Mark R. Vickery, P.G., Executive Director, Texas Commission on Environmental Quality

bcc: Joyce Spencer, Air Quality Planning Section
Amy Browning, Staff Attorney, Environmental Law Division
Brandon Greulich, Rule Project Manager, Air Quality Division
Melissa Kuskie, SIP Project Manager, 239-6098, Air Quality Division