

Texas Air Permitting Reminder: December 31 Deadline for Annual Operational Status Reports

By: Tim Sowecke, Win Colbert, Travis Lee, and Tyler Self
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In Texas, holders of certain New Source Review ("NSR") authorizations that are temporary or do not have an expiration date must report to the Texas Commission on Environmental Quality ("TCEQ") by December 31, 2026, whether each authorized activity is still operational. The annual reporting requirement covers registered permits by rule ("PBRs"), standard exemptions, and certain air quality standard permits, and it recurs by December 31 of each year. The report is generally easy and quick to file but can be easy to overlook because these authorizations otherwise may not have a regular reporting requirement.

Overview of the Annual Reporting Requirement

The obligation comes from Texas Water Code ("TWC") § 5.587(b) that requires a person who holds a temporary permit or a permit with an indefinite term to report to TCEQ each year whether the permitted activity is ongoing. This requirement does not apply to a person who holds a temporary permit or permit with an indefinite term that has a regular reporting requirement (TWC §5.587(a)).

The first reports for covered air authorizations were due December 31, 2024. Reports are now due by December 31 of each year, for each covered authorization.

Which Permits and Operations Are Covered

TCEQ has identified the following categories of air authorizations subject to the requirement:

1. Registered PBRs and standard exemptions. TCEQ currently identifies registered PBRs and standard exemptions as subject to the reporting requirement.
2. Certain air quality standard permits, specifically those for:
    - Animal carcass incinerators
    - Boilers
    - Concrete batch plants with enhanced controls
    - Electric generating units
    - Feedmills, portable augers, and hay grinders (where registration is required)
    - Hot mix asphalt plants
    - Marine loading operations
    - Oil and gas handling and production facilities
    - Permanent rock and concrete crushers
    - Pollution control projects (non-rule)
    - Temporary and permanent polyphosphate blenders

How to File and Submit

Reports are filed electronically through TCEQ's State of Texas Environmental Electronic Reporting System ("STEERS"). After logging into STEERS, permittees should select "Air New Source Review (NSR) Annual Operational Status Report." For each regulated entity number ("RN"), STEERS will identify the registration number for which the permittee must indicate whether the permitted activity is still operational.

What Happens if a Report is Late or Not Filed?

Failure to submit a required operational status report by December 31 is a failure to comply with TWC § 5.587 and may subject the permit holder to TCEQ enforcement, including possible permit loss/revocation and/or penalties. Texas law authorizes TCEQ to assess administrative penalties for violations of provisions of the TWC within the agency's jurisdiction. Depending on the circumstances, the statutory maximum for violations subject to TCEQ's general administrative penalty authority can reach $25,000 per day per violation, although the actual penalty for a late or missed operational status report would depend on applicable enforcement criteria and circumstances. A permit holder that discovers a missed deadline should therefore submit the required report promptly and evaluate whether any additional corrective or disclosure steps are appropriate.

What Permit Holders Should Be Doing Now

Permit holders should take the following steps before the December 31 deadline:

- **Inventory all TCEQ authorizations.** Review and identify each registered PBR, standard exemption, and potentially covered standard permit across your facilities, including older registrations that may have dropped off compliance calendars, and determine whether this annual operational status requirement is applicable.
- **Act, as appropriate, to void or cancel inactive authorizations.** Consider submitting a void request for any existing facility registration or activity that is no longer operational and/or will not operate in the future.
- **Confirm STEERS access.** Make sure that authorized personnel have active STEERS accounts and the access necessary to submit reports and notifications before year-end.
- **Address missed reports promptly.** If an authorization that should have been reported in a prior year was omitted, consider filing documentation that will promptly address any prior deficiencies; potential compliance or disclosure implications should also be evaluated.

Key Takeaways

The annual operational status report is a straightforward filing that can be easily overlooked. Holders of covered registered PBRs, standard exemptions, and certain standard permits must report each authorization's operational status through STEERS by December 31, and they must do it every year. Because failure to timely report is a violation of TWC § 5.587 and can create enforcement exposure, permit holders should make the filing a recurring compliance-calendar item. A few minutes now to confirm your inventory, STEERS access, and each authorization's operational status can prevent potential future compliance issues.

GableGotwals attorneys are experienced and able to provide legal advice about reporting applicability determinations and reporting requirements.



Tim Sowecke
405-568-3308
tsowecke@gablelaw.com



Win Colbert
346-200-6439
wcolbert@gablelaw.com



Travis Lee
918-595-4826
tlee@gablelaw.com



Tyler A. Self
405-235-5589
tself@gablelaw.com

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