

## **Guidance for Authorization of Emissions Under a Permit by Rule, 30 TAC Chapter 106**

Regulated entities have sought guidance on whether the following emissions, emissions that do not exceed the emission limitations in 30 TAC § 106.4(a)(1) and other operational requirements of these rules, may be considered authorized under a permit by rule (PBR): emissions from an upset event; emissions from an unscheduled maintenance, startup or shutdown activity; and emissions from a scheduled maintenance, startup or shutdown activity. The purpose of this document is to provide general guidance that may be used in making these determinations with consideration for site-specific circumstances.

### Background

The Standard Exemption List, developed by the Air Control Board in the 1970s and codified in rule (Chapter 106) beginning in 1996, was used to authorize insignificant sources, as allowed by the Texas Clean Air Act (TCAA) and Texas Health & Safety Code 382.057. In 1999, §382.05 196 was added to provide for Permits by Rule (PBR); the specific PBRs have been codified in Chapter 106. Chapter 106 includes both general requirements for all insignificant sources that may be covered under a PBR, as well as specific operational requirements and limitations specific to each subchapter of these rules. One of these general requirements is that total annual emissions of VOC, CO<sub>2</sub>, or PM<sub>10</sub>, or any other air contaminant (with some exceptions) must be less than 25 tons per year (tpy) or less than 250 tpy of CO or NO<sub>x</sub>, emissions (25/250). The question arises of whether or not all emissions related to a PBR facility are authorized so long as these long term emissions rates are not exceeded.

### Permit Considerations

New Source Review (NSR) permits, and their representations, include information that describes authorized activities and operational limitations. The Field Operations Division has previously provided an interoffice memorandum, dated December 19, 2002, that includes guidance for how the Office of Compliance and Enforcement evaluates activities authorized by a regular NSR or flexible permit. However, a major difference between permits and PBRs is that, in most cases, these permits limit emissions of specific air contaminants on a pound per hour (short term) and ton per year (long term) basis. Short-term and long term limitations, coupled with the site specific requirements of the permit, are utilized to adequately regulate emissions from sources that largely can not be described as insignificant sources. In comparison, PBRs are meant to authorize only insignificant sources, and the regulatory controls most often contain only pre-defined operational limitations in the specific rule language, annual ton per year limitations, and rarely include short-term limitations<sup>1</sup>.

Air Permits Division (APD) limits its reviews for authorization under a PBR to emissions APD considers are from "normal," "routine," or "steady state" operations, or operations otherwise outlined in the rules (i.e. TAC §106.355 - total uncontrolled emissions during metering, purging, or maintenance). These emissions are considered insignificant sources and may be subject to authorization under an applicable PBR. Emissions resulting from upsets, from scheduled/unscheduled startups maintenance and shutdowns, and from "non-routine" or "non steady state" operations can be substantial, and may not fall within the realm of insignificant sources of emissions.

### Conclusions

Emissions subject to authorization under PBR are limited to those that stem from routine or steady state operations, unless authorized under TAC §106.263 (relating to Routine Maintenance, Start-up, and Shutdown of Facilities, and Temporary Maintenance) or under another PBR that specifically addresses activities and emissions that result from operations that are non-routine or that are not steady state. Unauthorized emissions from emissions events, as defined in 30 TAC §101.1 (25), must be reported according to 30 TAC Chapter 101, Subchapter F and may be afforded an affirmative defense. In reporting emissions events to the agency, if the emissions were not unauthorized because of an exceedance of a short-term emissions limitation in an applicable PBR, the STEERS Initial Incident Report should be completed with: an entry of "0" under the heading "Emission Limit"; and an entry of " N/A" or "None" or an equivalent response under the heading "Authorization". If emissions exceeded an applicable short term emissions limitation in an applicable PBR, then the STEERS Initial Incident Report should include the appropriate PBR limitation under the heading "Authorization".

Emissions from scheduled maintenance, startup, and shutdown activities may be authorized by permit where these activities and related emissions are sufficiently predictable and quantifiable to allow for the development of appropriate permit limitations.

<sup>1</sup> – An owner or operator may certify and register the maximum emission rates from facilities permitted by rule according to 30 TAC §106.6(a), in order to establish federally-enforceable allowable emission rates, through submission of a PI-8 form. These rates can not exceed those general requirements at 30 TAC §106.4(a)(1), but they are not otherwise reviewed and approved by TCEQ as being adequate to control emissions.