

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §116.115, General and Special Conditions, and §116.611, Registration to Use a Standard Permit. Sections 116.115 and 116.611 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the Texas state implementation plan (SIP). The commission proposes these amendments to Chapter 116 in order to correct a deficiency on the Texas Title V Operating Permit Program, published by the EPA in the January 7, 2002 issue of the *Federal Register* (67 FR 732).

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

Title V of the Federal Clean Air Act Amendments of 1990 (FCAA) as codified in 42 United States Code (USC) required all states to develop operating permit programs that met federal criteria. The EPA has promulgated a final rule identifying the criteria for state operating permit programs, 40 Code of Federal Regulations (CFR) Part 70, State Operating Permit Programs. The general goal of the operating permit program requirement is to facilitate compliance and improve enforcement by issuing permits that consolidate all applicable requirements into a federally-enforceable document. EPA reviews all state operating permit programs, and retains the authority to issue a notice of deficiency (NOD) for identified deficiencies in state operating permit programs after full approval of those programs.

The EPA promulgated source category-limited interim program approval of the Texas Title V Operating Permit Program on June 25, 1996. The EPA extended approval of interim programs three times. The third extension of interim program approvals was challenged in the Court of Appeals for the District of Columbia Circuit, and the extension was withdrawn. As a result of the litigation, on May

22, 2000, the EPA promulgated a rulemaking that extended approval of interim programs until December 1, 2001, in order to allow permitting authorities the time needed to correct all remaining interim approval deficiencies and obtain full approval for their operating permit programs by December 2001. Texas submitted its revised program that corrected all interim approval deficiencies and the EPA published the Texas full program approval notice in the December 6, 2001 issue of the *Federal Register* (66 FR 63318). The EPA also, through settling the litigation, agreed to solicit comments on programmatic or implementation deficiencies on Title V programs by publishing a notice in the *Federal Register*. This notice was published in the December 11, 2000 issue of the *Federal Register* (65 FR 77376) and EPA received comments. The EPA reviewed the comments and agreed that some of the comments received on the Texas Title V Operating Permit Program were deficiencies. These deficiencies were identified in the NOD published in the January 7, 2002 issue of the *Federal Register* (67 FR 732).

The commission is proposing these rule amendments to correct an item identified in the NOD relating to practical enforceability of potential to emit (PTE) limits. Title 40 CAR Part 70 specifies the EPA's authority to withdraw an approved operating permit program when a state does not comply with the requirements of Part 70. If the state does not correct the deficiencies, the EPA administrator will apply sanctions, as specified in the FCAA, §179(b), 18 months after the January 2002 NOD. In addition, the EPA administrator will withdraw approval of the program, or a portion of the program, and promulgate, administer, and enforce a whole or partial federal program two years after the date of issuance of the NOD unless the deficiencies are corrected within 18 months of the January 7, 2002 NOD. Correcting all deficiencies requires amendments to 30 TAC Chapter 122, Federal Operating

Permits, and 30 TAC Chapter 106, Permits by Rule, as well as amendments to this chapter. The commission is proposing amendments to the rules that implement its operating permit program and will submit program revisions to the EPA within 18 months of the NOD.

*Resolution of The Deficiency*

The January 7, 2002 NOD specified one deficiency that affects Chapter 116. In the NOD, the EPA stated that the commission's approach to establishing PTE limitations to avoid Title V permitting does not comply with the requirements of the FCAA. The EPA further noted that Chapter 122 is not practically enforceable, since it does not meet one of the requirements for practical enforceability that requires notice to the state from those establishing PTE limits.

The commission proposes to amend Chapter 116, as well as Chapters 122 and 106, since they also contain language relating to documentation requirements for establishing PTE limits. The commission proposes to amend §116.611 to require registrations establishing a federally-enforceable emission limit to be submitted to the executive director, to the appropriate commission regional office, and all local air pollution control agencies having jurisdiction over the site. This will fulfill the requirement of practical enforceability.

In addition, the EPA specified in the NOD that the commission's approach to establishing PTE limits was not federally enforceable, since the applicable regulations were not part of the Texas SIP. In response, the commission will submit §116.611, once amended, to the EPA as a revision to the Texas SIP.

#### SECTION BY SECTION DISCUSSION

The commission proposes new §116.115(b)(2)(f)(vi) to specify that standard permit records must be retained for five years if a federally-enforceable emission limitation under §116.611 is established to avoid operating permit requirements under Chapter 122. This is consistent with existing recordkeeping requirements in Chapter 122 and Chapter 106.

The commission proposes amendments to §116.611(a), which currently requires all persons operating under a standard permit to submit a registration to the commission. Because some standard permits do not require a registration to be submitted, the commission proposes these amendments to specify that registrations must be submitted only if already required. The commission also proposes to amend §116.611(a) to specify that registrations are to be submitted on the required form. The existing text indicated the specific form required to be submitted. Such specificity is not needed for the rule language and the general language being proposed gives the executive director flexibility in developing forms in the future.

In addition, the commission proposes amendments to address the NOD on the Texas Title V Operating Permit Program. The commission proposes to amend §116.611(c) to specify that a person certifying and registering a federally-enforceable emission limit for a standard permit must submit the certified registration. The proposed amendment will require all owners and operators that have established emission limits to avoid applicability of Chapter 122 to submit the certified registrations and such action

will make the PTE limits practically enforceable. The commission will submit §116.611 to the EPA as a revision to the Texas SIP. Once §116.611 has been approved into the Texas SIP, the PTE limits will be federally enforceable. The commission proposes new §116.611(c)(1) and (2) to establish the deadline for submitting certified registrations. The new paragraphs provide that certified registrations previously established must be submitted on or before January 2, 2003 and that certified registrations must be submitted upon operation after the effective date of the rule. The commission also proposes to amend §116.611(c) to specify that certifications shall be amended. Owners and operators having standard permit registrations will be required to submit revised registrations if information in the registration has changed. In general, submission of certified registrations for the purposes of establishing PTE limits will not be charged a fee. Standard permit registrations are, however, an option for obtaining new source review authorization and Chapter 116 does require a specific fee for standard permit registrations. Therefore, changes to standard permit registrations may require a fee for the new source review action, which is dependent on the specific change at the site. For example, if an emission factor changes from the time the standard permit registration is approved, a revised registration must be submitted to the executive director. In this example, the change may be submitted as a permit alteration under §116.116(c) and no additional standard permit fee would be required.

#### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed amendments are in effect, there will be no significant fiscal implications for any unit of state and local government due to administration and enforcement of the proposed amendments. Units of government that operate sources with the PTE air pollutants equivalent

to a major source that are establishing federally-enforceable emission limits would be required to submit data demonstrating that they are not subject to the Title V Federal Operating Permit Program. Current rules allow certified registrations of enforceable emission limits to be kept on-site by the facility. The proposed amendments would require owners or operators of affected sites to mail a copy of the certified registration of emissions to the executive director, the appropriate regional office, and to any air pollution control agency that has jurisdiction over the affected site. Costs to owners or operators of affected facilities to mail the registration of emissions are not considered significant. The proposed amendments would also require affected facilities, owned or operated by units of state or local government utilizing standard permits to establish federally-enforceable emission limits, to retain records for five years instead of the current requirement to retain them for two years. Costs to comply with the proposed record retention requirements for each facility are estimated to be \$500 per year, and are not considered significant.

A major source has the PTE: more than 100 tons per year (tpy) of any single air pollutant; or 25 tpy of nitrogen oxides (NO<sub>x</sub>) or volatile organic compounds (VOCs) in a severe ozone nonattainment area; or 50 tons of NO<sub>x</sub> or VOCs in a serious ozone nonattainment area; or ten tpy of any single hazardous air pollutant; or 25 tpy of any combination of hazardous air pollutants. These sites are normally regulated under the commission's Chapter 122; however, if a site with the PTE equivalent to a major source agrees to federally-enforceable emission limits below the major source thresholds, it is not required to obtain a federal operating permit. The proposed amendments would affect facilities such as oil and gas facilities, municipal solid waste landfills, concrete batch plants, electric generating units, and temporary rock crushers.

This rulemaking is intended to revise existing Chapter 116 New Source Review (NSR) permit regulations to address issues raised by the EPA in the January 7, 2002 NOD. This rulemaking applies to owners and operators who have established certified registrations of PTE limitations to demonstrate that the commission's Title V program does not apply to their sources. Currently, sites authorized under a standard permit, with a PTE equivalent to a major source, are required to maintain certified registrations of emissions on-site that demonstrate the site's emissions are below the major source thresholds. The proposed amendments would require owners and operators of affected sites to mail a copy of the certified registration of emissions to the executive director, the appropriate regional office, and to any air pollution control agency that has jurisdiction over the affected site. Additionally, units of government using standard permits to establish federally-enforceable emission limits will be required to retain records for five years instead of the current requirement to retain them for two years. The overall cost to comply with the recordkeeping requirements is estimated not to exceed \$500 a year. Because the amendments require the submission of existing data, and a longer record retention period, no significant fiscal implications are anticipated for units of state and local government due to implementation of the proposed amendments.

#### PUBLIC BENEFITS AND COSTS

Mr. Davis also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be increased availability of information on sites that claim to be emitting below major source thresholds.

There will be costs, which are not considered significant, for businesses and individuals that own or operate sources with the PTE air pollutants equivalent to a major source that are establishing federally-enforceable emission limits. These facilities would be required to submit data demonstrating that they are not subject to the Title V Operating Permit Program. In addition, facilities owned or operated by individuals or businesses using standard permits to establish federally-enforceable emission limits will be required to retain records for five years instead of the current requirement to retain them for two years. Costs to comply with the proposed record retention requirements for each facility are estimated to be \$500 per year, and are not considered significant.

Current rules allow certified registrations of enforceable emission limits to be kept on-site by the facility. Members of the public may have difficulty accessing on-site registrations. This rulemaking will require all certified registration, which are established to avoid operating permit requirements, to be submitted. The submitted certified registrations will be made available to members of the public in the commission's central office file room and appropriate regional office, and any local air pollution control agency with jurisdiction over the site. This rulemaking will also increase the duration of time that records must be kept to demonstrate compliance with the emission limit established in the registration from two to five years.

This rulemaking is intended to revise existing Chapter 116 NSR permit regulations to address issues raised by the EPA in the January 7, 2002 NOD. This rulemaking applies to owners and operators who have established certified registrations of PTE limitations to demonstrate that the commission's Title V program does not apply to their sources. The proposed amendments would require owners and

operators of affected sites to mail a copy of the certified registration of emissions to the executive director, the appropriate regional office, and to any air pollution control agency that has jurisdiction over the affected site. In addition, businesses or individuals utilizing standard permits to establish federally-enforceable emission limits will be required to retain records for five years instead of the current requirement to retain them for two years. The overall cost to comply with the recordkeeping requirements is estimated not to exceed \$500 a year. Because the amendments require the submission of existing data, and a longer record retention period, no significant fiscal implications are anticipated for individuals and businesses due to implementation of the proposed amendments.

#### SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

There will be no significant adverse fiscal implications to small or micro-business as a result of implementing the proposed amendments. This rulemaking is intended to revise existing Chapter 116 NSR permit regulations to address issues raised by the EPA in the January 7, 2002 NOD. This rulemaking applies to owners and operators who have established certified registrations of PTE limitations to demonstrate that the commission's Title V program does not apply to their sources. The proposed amendments would affect facilities such as oil and gas facilities, municipal solid waste landfills, concrete batch plants, electric generating units, and temporary rock crushers. The proposed amendments would require owners and operators of affected sites to mail a copy of the certified registration of emissions to the executive director, the appropriate regional office, and to any air pollution control agency that has jurisdiction over the affected site. In addition, small or micro-businesses using standard permits to establish federally-enforceable emission limits will be required to retain records for five years instead of the current requirement to retain them for two years. The

overall cost to comply with the recordkeeping requirements is estimated not to exceed \$500 a year.

Because the amendments require the submission of existing data, and a longer record retention period, no significant fiscal implications are anticipated for small or micro-businesses due to implementation of the proposed amendments.

The following is an analysis of the cost per employee for small or micro-businesses affected by the proposed amendments. Small and micro-business are defined as having fewer than 100 or 20 employees respectively. A small business using standard permits to establish federally-enforceable emission limits and who are required to retain records for five years instead of the current requirement to retain them for two years would incur additional estimated costs of \$500 a year or \$5 per employee. A micro-business using standard permits to establish federally-enforceable emission limits and who are required to retain records for five years instead of the current requirement to retain them for two years would incur additional estimated costs of \$500 a year or \$25 per employee. The projected costs for affected facilities are the same for small businesses as for larger businesses.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

#### DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission has reviewed the proposed rulemaking in accordance with the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking does not meet the definition of a major environmental rule. A “major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Although the proposed rules to implement the requirements of 42 USC, §§7661 - 7661e are intended to protect the environment or reduce risks to human health from environmental exposure through increased compliance with requirements already applicable to facilities, the proposed changes are not anticipated to have adverse effects on the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed rules require registrations for establishing PTE limits to be submitted to the executive director, the appropriate commission regional office, and all local air pollution control agencies having jurisdiction, in order to assure that the registrations are practically enforceable.

The requirements of the proposed rules are expected to result in little or no impacts on the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. All facilities affected by the proposed rules were already required to document the establishment of PTE limits in order to avoid the applicability of the Federal Operating Permit

Program. Previously, the registrations were required to be kept on-site at the facilities. These proposed changes are discussed in detail elsewhere in this preamble.

Title V of the FCAA Amendments of 1990 required all states to develop operating permit programs that met federal criteria. The EPA has promulgated a final rule identifying the criteria for state operating permit programs, 40 CFR Part 70. The general goal of the operating permit program requirement is to facilitate compliance and improve enforcement by issuing permits that consolidate all applicable requirements into a federally-enforceable document. EPA reviews all state operating permit programs, and retains the authority to issue a NOD for identified deficiencies in state operating permit programs after full approval of those programs. The commission was granted final approval of the operating permit program in the December 6, 2001 issue of the *Federal Register* (66 FR 63318). EPA issued an NOD on January 7, 2002 for the operating permit program, identifying items which must be resolved within 18 months after the NOD to avoid withdrawal of program approval and the application of sanctions in accordance with 40 CFR §70.10 and 42 USC, §7509. The proposed rules correct one of the deficiencies identified by the EPA in the NOD, in order to provide the basis for an approval of the Texas Operating Permit Program by EPA. If the commission fails to submit a program that is approvable by EPA, the EPA will implement a Federal Operating Permit Program in Texas under 40 CFR Part 71, and impose sanctions, including a loss of federal highway funds and increased emission offsets in nonattainment areas.

Additionally, the analysis required by Texas Government Code, §2001.0225(c) does not apply because the proposed rules do not meet any of the four applicability requirements of a major environmental rule.

The proposed rules do not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement, or adopt a rule solely under the general powers of the agency. The rules are proposed specifically to comply with the requirements of 42 USC, §§7661 - 7661e and related provisions of the Texas Clean Air Act (TCAA), and do not exceed the requirements of either. Additionally, the proposed rules do not exceed a requirement of a delegation agreement, since there is agreement that is applicable to this rulemaking, and are not proposed solely under the general powers of the agency.

#### TAKINGS IMPACT ASSESSMENT

The commission evaluated the proposed rules and performed an analysis of whether the proposed rules are subject to Texas Government Code, Chapter 2007. The purpose of the proposed rules is to fulfill the commission's obligation to implement the requirements of 40 CFR Part 70 through the creation of a state operating permit program. The commission was granted final approval of the operating permit program in the December 6, 2001 issue of the *Federal Register* (66 FR 63318). EPA issued an NOD on January 7, 2002 for the operating permit program, identifying items which must be resolved within 18 months after the NOD to avoid withdrawal of program approval and the application of sanctions in accordance with 40 CFR §70.10 and 42 USC, §7509. The proposed rules will advance this purpose by responding to one of the deficiencies identified by EPA in the NOD.

The commission's analysis indicates that Texas Government Code, Chapter 2007 does not apply to these proposed rules because this is an action that is reasonably taken to fulfill an obligation mandated by federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The proposed rules

will implement requirements of 42 USC, §§7661 - 7661e. The action is mandated by federal law because the state is required to submit a state operating permit program to avoid the imposition of sanctions under 42 USC, §7509. Additionally, promulgation and enforcement of these rules will not burden private real property. The proposed rules do not affect private property in a manner which restricts or limits an owner's right to the property that would otherwise exist in the absence of governmental action. Consequently, the proposed rules do not meet the definition of a takings under Texas Government Code, §2007.002(5).

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has determined that the proposed rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission rules in 30 TAC Chapter 281, Subchapter B, Consistency with the CMP. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed the proposed rulemaking for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and determined that the rulemaking is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l)). The CMP policy applicable to this rulemaking is the policy (31 TAC §501.14(q)) that commission rules comply with federal regulations in 40 CFR to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). The permits issued under

Chapter 122 do not authorize new air emissions. Requiring submission of the registrations limiting PTE will provide a practically-enforceable mechanism providing potential air quality benefits to the citizens of Texas. Therefore, this rulemaking is consistent with the applicable policy and goal.

The commission seeks public comment on the consistency of the proposed rulemaking with applicable CMP goals and policies.

#### EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

This proposal will affect owners and operators using a certified registration of emissions to establish a federally-enforceable emission limit to demonstrate that a site is not subject to the operating permit program. Owners and operators that have established or will establish such limits through a certified registration must submit the certified registration to the executive director to ensure practical and federal enforceability of the PTE limits.

#### ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held on August 19, 2002 at 2:00 p.m. at the Texas Natural Resource Conservation Commission Complex in Building E, Room 201S, located at 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. There will be no open discussion during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Angela Slupe, MC 205, Office of Environmental Policy, Analysis, and Assessment, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 2002-043-122-AI. Comments must be received by 5:00 p.m., August 26, 2002. For further information please contact Tara Capobianco, Technical Program Support Section, at (512) 239-1117, or Alan Henderson, Regulation Development Section, at (512) 239-1510.

**SUBCHAPTER B: NEW SOURCE REVIEW PERMITS**

**DIVISION 1: PERMIT APPLICATION**

**§116.115**

**STATUTORY AUTHORITY**

The amendment is proposed under Texas Health and Safety Code (THSC), TCAA, §382.011, which authorizes the commission to administer the requirements of TCAA; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of TCAA; §382.051, which authorizes the commission to issue permits and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this chapter; §382.05195, which authorizes the commission to issue standard permits; and Texas Water Code (TWC), §5.103, which authorizes the commission to propose rules.

The proposed amendment implements THSC, §382.011, concerning General Powers and Duties; §382.017, concerning Rules; §382.051, concerning Permitting Authority of Commission and Rules; §382.05195, concerning Standard Permits; and TWC, §5.103, concerning Rules.

**§116.115. General and Special Conditions.**

- (a) (No change.)

(b) General conditions. Holders of permits, special permits, standard permits, and special exemptions shall comply with the following:

(1) (No change.)

(2) the following general conditions if the permit or amendment is issued or amended on or after August 16, 1994, regardless of whether they are specifically stated within the permit document.

(A) - (E) (No change.)

(F) Recordkeeping. The permit holder shall:

(i) - (iii) (No change.)

(iv) comply with any additional recordkeeping requirements specified in special conditions attached to the permit; [and]

(v) retain information in the file for at least two years following the date that the information or data is obtained; and [.]

(vi) for persons certifying and registering a federally-enforceable emission limitation in accordance with §116.611 of this title (relating to Registration To Use a Standard Permit), retain all records demonstrating compliance for at least five years.

(G) - (I) (No change.)

(c) (No change.)

## **SUBCHAPTER F: STANDARD PERMITS**

### **§116.611**

#### **STATUTORY AUTHORITY**

The amendment is proposed under THSC, TCAA, §382.011, which authorizes the commission to administer the requirements of TCAA; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of TCAA; §382.051, which authorizes the commission to issue permits and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under this chapter; §382.05195, which authorizes the commission to issue standard permits; and TWC, §5.103, which authorizes the commission to propose rules.

The proposed amendment implements THSC, §382.011, concerning General Powers and Duties; §382.017, concerning Rules; §382.051, concerning Permitting Authority of Commission and Rules; §382.05195, concerning Standard Permits; and TWC, §5.103, concerning Rules.

#### **§116.611. Registration to Use a Standard Permit.**

(a) If required, registration [Registration] to use a standard permit shall be sent by certified mail, return receipt requested, or hand delivered to the executive director, the appropriate commission regional office, and any local air pollution program with jurisdiction, before a standard permit can be used. The registration must be submitted on the required form [a Form PI-1S] and must document compliance with the requirements of this section, including, but not limited to:

(1) - (6) (No change.)

(b) (No change.)

(c) Any person using a standard permit may certify and register a federally-enforceable [federally enforceable] emission limitation for one or more air contaminants by stating a maximum allowable emission rate in the registration. The certification shall [may] be amended and must include documentation of the basis of emission estimates and a written statement by the registrant certifying that the maximum emission rates listed on the registration reflect the reasonably anticipated maximums for operation of the facility. The certified registration shall be submitted to the executive director; to the appropriate commission regional office; and all local air pollution control agencies having jurisdiction over the site. [maintained on-site and be provided upon request to a representative of the executive director or any air pollution control agency having jurisdiction. For facilities that normally operate unattended, this information shall be maintained at the nearest staffed location within Texas specified by the standard permit holder in the standard permit registration.]

(1) Certifications established prior to the effective date of this rule shall be submitted on or before January 2, 2003.

(2) Certifications shall be submitted no later than the date of operation after the effective date of this rule.