

**TCEQ, Air Permits Division
Advisory Group on the 8 Hour Ozone Standard and New Source Review Reform
March 31, 2005
Austin**

Meeting Minutes

- I Opening Remarks Richard Hyde**
- II Background or Update Information Kurt Kind**

The TCEQ staff presented to stakeholders two general plans to implement federal new source review reform (NSRR). The staff prepared documents that integrated NSRR into existing TCEQ rules or incorporated NSRR by reference to federal rules.

Does TCEQ prefer to integrate NSRR rules into existing state rules or incorporate by reference?

Staff response: The staff did not note any strong objections to the integrated program at the meeting but will wait for written comments from stakeholders before making a recommendation to management for consideration by the executive director and commission.

Why take routine maintenance, repair and replacement (RMRR) out of incorporation of federal rules by reference?

Staff response: The RMRR portion of NSRR has been stayed by the courts and that is reflected in the Code of Federal Regulations. When that case has been resolved at the federal level, TCEQ will evaluate the best way to incorporate that change into our state implementation plan (making rules with stakeholder input).

III Discussion Topics

A. Clean Unit Permits - Clean units are those units or facilities where emission increases under the permitted allowable emissions may be exempted from netting based on use of current best available control technology (BACT), lowest achievable emission rate (LAER) or BACT equivalency. The clean unit designation is good for ten years. TCEQ may change to the term “facility” instead of “unit”.

Why require LAER for clean units? There is no federal reference.

Staff response: LAER is required by the federal rule for the pollutant for which an area is non-attainment. Clean unit determinations are made on a pollutant-by-pollutant basis.

Concerning clean unit status in an area changing attainment status, what happens at permit renewal?

Staff response: Clean unit status applies for ten years and would remain in effect for the balance of that period, even if that period should extend beyond the life of the state permit. At the end of the clean unit period, controls would have to be upgraded to LAER in order to renew the clean unit designation if the area in which the unit is located has been designated non-attainment.

Does clean unit status extend past expiration of permit?

Staff response: Federal NSR permits do not require renewal so the EPA rule does not anticipate this issue, and the status could extend beyond the state permit life under the federal rule. Staff will need to evaluate how this would work with existing permit procedures and durations.

Concerning loss of clean unit status, why does TCEQ require a new permit with BACT or LAER?

Staff response: Staff would recommend an equivalent re-qualification process based on federal rule and does not intend to be more restrictive than federal requirements. Staff will also take another look at the federal rule to confirm the permit requirement.

Are offsets required for re-qualification?

Staff response: No.

Why remove Environmental Protection Agency (EPA) reference to BACT clearinghouse? The federal rule mentions the BACT clearinghouse database as a tool for determining BACT equivalency when making a clean unit determination.

Staff response: The BACT clearinghouse will be a tool used for evaluations but the TCEQ executive director will make BACT equivalency determination.

How is clean unit included in netting versus non-clean unit?

Staff response: Clean units are excluded from netting based on each pollutant. A clean unit for one pollutant is exempted from netting for increases in only that pollutant, but not for others.

Is the mass emission cap and trade (MECT) program equivalent to LAER?

Staff response: No

Qualification as an emission credit...is this redundant with MECT?

Staff response: No

These comments were noted, and will be evaluated by the staff during the rule development.

EPA comment - Issuance of a prevention of significant deterioration (PSD) or non-attainment (NA) permit with control technology review in last 10 years qualifies a unit as a clean unit.

The combination of BACT/LAER and equivalency language in clean unit draft language was confusing.

B. Pollution Control Projects (PCP) - The federal PCP, which TCEQ would implement using a standard permit, exempts from netting incidental emission increases from certain environmentally beneficial projects. The existing PCP standard permit will be revised and available for state purposes.

Does a staged project require separate authorization for each phase?

Staff response: Yes, if gaps in construction are greater than 18 months.

Will emission increases caused by the use of a PCP under the existing state standard permit require netting? (The TCEQ staff intends to keep both a federal and state PCP standard permit)

Staff response: Yes, but emission reductions can also be used to generate emission reduction credits (ERCs).

These comments were noted, and will be evaluated by the staff during the rule development.

Keep both standard permits but keep state and federal separate.

Show in final rule how TCEQ can accomplish review of non-listed projects in the federal PCP standard permit using existing state standard permit procedures that do not require individual case public notice.

C. Baseline Emission Determination - Baseline determination allows facilities to use any 24 consecutive months in a ten year period, or five years for electric generating facilities (EGF), to be the most representative period for the facility operation. Emission increases are compared to the baseline in order to determine applicability of federal new source review.

Would start-up, shutdown, and maintenance (SSM) emissions require further review for inclusion in the baseline?

Staff response: No, if previously authorized.

Will a comfortable limit be taken away?

Staff response: No, but the baseline may not reflect allowables.

These comments were noted, and will be evaluated by the staff during the rule development.

Take out SSM reference in baseline definition.

Not clear what “malfunction” means under EPA rule.

TCEQ should encourage facilities to come in and add SSM to baseline emissions.

D. Actual to Projected Actual Emissions (APA) - Allows for the establishment of a projected actual emission rate in addition to any allowable rate. This also allows for the reduction of the actual to projected actual increase by any emissions that could have been accommodated within the baseline figure.

APA emissions comparison would not be available to non-qualified facilities, as established by Senate Bill 1126, under integrated option. Commenters wanted both qualified and non-qualified to be able to use actual to projected actual.

Staff response: Based on previous EPA input, they are unlikely to approve.

How is the Senate Bill 1126 concept incorporated into the rules?

Staff response: See definitions for net emission increase under “major modification”. Physical changes at facilities using current BACT are qualified facilities and do not require permit amendment.

This comment was noted, and will be evaluated by the staff during the rule development.

“Organic growth” meaning growth of utility customer base is not used in APA designation, TCEQ should treat EGFs differently.

E. Plant-wide Applicability Limit (PAL) - Allows for the establishment of a plant-wide cap on a specific pollutant. Emission increase remaining under the cap would be exempt from netting.

Why is TCEQ requiring BACT for use in PAL? It’s not in the federal rule.

Staff response: This was an integration of the federal rule with the current state flexible permit

program. Facilities with a flexible permit can get PAL based on former BACT review.

These comments were also noted, and will be evaluated by the staff during the rule development.

Can existing facility flexible permit holders be grandfathered as PAL?

Clarify pollutant specific basis for PAL.

IV Closing Remarks/Action Items

Written comments on rule drafts are due to TCEQ by April 21, 2005

Projected proposal date: June 29, 2005

Adoption date: December 2005.

Meeting Attendees

TCEQ, Air Permits Division
Advisory Group on 8 Hour Ozone and New Source Rev
March 31, 2005
9:30 am
TCEQ Austin Campus, Bldg C, Room 131

Sign-In Sheet

Attendee Name

MIKE Tomerlin

Matt Paulson

James Tran

Wanda Brooks

Ed Fiesinger Z

Chris Benton Caroco

PAUL COON

ROHIT SHARMA L

Carole Stapper U

Christina Frazer U

PATRICK MULLIN L

JAN LAUGHLIN C

JAMES MURRAY C

CRAIG KNOELLER

JEFF SALAS

Stanley Spruiell

Julie Clifford

Jim Myers

Joe Bentley - CCA

Shat Keil

Jim BRADDOCK

Vicki Johnson

Celina Romero

Keith Courtney

Steven R. Hansel

Kris Gauer

Eric Tiemeyer

Ervin Thomas

Shuy Mai

Russell Wozniak

Matt Kusyla

Ashwani Prkine