

Permit Application Guidance for Companies Located in an Air Pollutant Watch List Area

The TCEQ lists an area on the Air Pollutant Watch List (APWL) when persistent, elevated concentrations of air toxics are monitored above a level of concern. Since monitored air in an APWL area already indicates concentrations above a level of concern, the TCEQ is cautious when approving additional increases of APWL contaminants. Therefore, the TCEQ must scrutinize any request to increase emissions of an APWL contaminant in an APWL area, regardless of the amount.

The TCEQ provides this guidance to companies located in or seeking to locate in an APWL area. The purpose of this guidance is to increase transparency between companies and the TCEQ, helping APWL companies set appropriate expectations and address concerns prior to submittals of air New Source Review (NSR) permit applications and permit by rule (PBR) registrations. Following this guidance will enable companies and the TCEQ to address APWL concerns up front, conserving resources and minimizing permit delays.

Schedule a Pre-Application Meeting

The TCEQ highly encourages companies to schedule a pre-application meeting to discuss air permit applications that include a request to increase or emit for the first time an APWL contaminant. This pre-application meeting will provide the applicant with an opportunity to present the proposed permit application and also allow the TCEQ to evaluate the request and provide guidance specific to the application prior to submission for approval. An applicant may request a pre-application meeting for a permit application and also for a PBR registration by contacting the appropriate NSR section manager in the Air Permits Division. Meeting requests should specify that the company is requesting an increase of a contaminant of concern in an APWL area. The pre-application meeting will be most productive if the applicant is prepared to discuss the following items:

Equivalent Reductions

If a company currently emits and is requesting an increase in the APWL contaminant, an equivalent reduction of the APWL contaminant must be provided. If a company can provide a new equivalent reduction for the requested increase, the reduction can be made enforceable in the proposed permit action, and a pre-application meeting may not be necessary. Otherwise, a company is encouraged to request a pre-application meeting to discuss the project, including any past equivalent reductions or actions to reduce emissions. Equivalent reductions must be enforceable and must have been authorized within two years of submittal of the application. Equivalent reductions must not have been otherwise required by an agreed order, consent decree, a federal or state rule or law, or any other requirement and also must not have been included in a Disclosure of Violation under the Texas Environmental, Health, and Safety Audit Privilege Act (Audit

Privilege Act). Equivalent reductions also must not have been relied upon for approval of an NSR permit (including the health effects review).

Proposed Controls

The TCEQ would like to discuss the proposed controls in the pre-application meeting. This is an opportunity for the applicant to discuss any additional emission reduction strategies and any possible controls beyond best available control technology (BACT) or regulations.

Preliminary Air Quality Analysis

A preliminary air quality analysis, which may include screen modeling, is extremely helpful in understanding, early on, the potential impacts from the permit action. The TCEQ encourages applicants that plan to conduct modeling to contact the Air Dispersion Modeling Team of the Air Permits Division for specific guidance.

Applicants should be prepared to discuss the distance of the facilities to nearby receptors and the monitors, as well as predicted concentrations and predominant wind direction.

Early input from the TCEQ allows the applicant to determine the feasibility of the project prior to application submittal and will also allow the TCEQ to identify potential areas of concern with the request as part of the technical review rather than later in the process during the health effects review. Early discussions with the TCEQ will prevent the applicant and the TCEQ from expending resources on unnecessary “remodeling” of projects accounting for changes in controls or operational restrictions as a result of exceedances discovered during the health effects review.

Permit Application Submittal

The applicant should discuss the APWL program in the appropriate portions of the application. For example, if the company proposes controls beyond BACT to address the APWL, the applicant should specify this information in the BACT discussion of the application. Similarly, the applicant should discuss equivalent reductions in the project overview portion of the application. Applicants may also include a brief summary of the equivalent reductions, the proposed controls, a summary of the modeling analysis for the APWL contaminants, any other items discussed in the pre-application meeting, and any subsequent communications with the TCEQ.

Additional Guidance for PBR Registrations

A PBR may be an available authorization mechanism for an increase in an APWL area; however, an applicant must take the following steps to ensure timely processing of PBR claims:

Equivalent Reductions

The registration should provide equivalent reductions of the APWL contaminant for the requested increase. If a company can provide a new equivalent reduction for the

requested increase, a pre-application meeting may not be necessary. Otherwise, a company is encouraged to request a pre-application meeting to discuss past equivalent reductions or actions to reduce emissions. Equivalent reductions must have been authorized within two years of submittal of the registration. Equivalent reductions must not have been otherwise required by an agreed order, a consent decree, a federal or state rule or law, or any other requirement and also must not have been included in a Disclosure of Violation under the Audit Privilege Act. Equivalent reductions also must not have been relied upon for approval of an NSR permit (including the health effects review). The registration should include the permit number and issuance date.

Certification of Emissions

The applicant should submit a certification of emissions with the registration to certify the emission rate that is claimed and also ensure that any equivalent reductions are enforceable.

Additional Information

The TCEQ has developed many PBRs as a way to effectively implement its NSR program; however, the TCEQ must scrutinize increases of APWL contaminants in APWL areas. The TCEQ requests that the applicant provide as much detail as possible in the PBR registration. It would be helpful for an applicant to explain if the increase in the pollutant of concern is really necessary and what alternatives have been considered. It is also helpful for the applicant to specify if the characterization and quantification of the pollutant emissions are overly conservative or reasonable and expected.