

Chapter 116 : Control of Air Pollution by Permits for New Construction or Modification January 7, 2003

Fee issues: non-payment, refunds, and schedules

TCEQ staff stated that they would recommend rules requiring permit applications be held until the proper fee is received. No time constraints on TCEQ for processing the application would begin until the fee is received. Applicants would be eligible for a refund of fees from the NSR application if they subsequently qualify for a permit by rule or standard permit. The staff was questioned on who determines the proper fee. Fees are determined and verified during administrative review of the application.

Requirement to certify all emission reductions prior to use as offsets

Emission reductions that are to be used as offsets would be certified under the banking and trading rule in Chapter 101. This is needed to ensure consistency of reduction evaluation and verification. The staff was questioned on the need for the continued use of offsets and netting in areas that operate under an emissions cap. TCEQ is currently involved in discussions with EPA to examine the elimination of offsets and netting in cap areas. EPA is concerned that emissions cap must meet the intent of the FCAA and serve the same purpose as offsets and netting.

Deadline to submit emission reductions for offset consideration

TCEQ would require that reductions to be used as offsets be submitted to the agency by a specific date in order to establish a base for SIP development. This deadline would be 9-12 months after the effective date of the rule.

Removal of administrative voidance of applications and results of actual voidance

The practice of administratively voiding a permit has no basis in the rules of the TCEQ. The staff is recommending a rule that would codify the results of a permit application being voided. Applicants that have their applications voided would be subject to a new technical review and public notice on re-application. If re-application is made within 6 months of the voidance then no new fees would be required. An application would be voided following at least two notices to the applicant that the application was deficient. The audience questioned staff about this notification and recommended that dates for compliance with the request for additional information be left flexible and not codified in the rule. Current practice is a 30 day deadline for response to a first notice of deficiency and 15 days for response to the second. The staff believes that a case-by-case variance of deadlines should be examined, but that once these deadlines expire then the voidance of the application is automatic.

Narrow conditions for extensions for commencement of construction

Applicants with newly issued NSR permits currently have 18 months to commence construction. A one-time 18-month extension is available at the request of the applicant. The staff is recommending that an additional 18-month extension be made available for delays in construction brought on by specific reasons. The only reason currently specified is a delay caused by third party litigation. The staff will also examine delays brought on by changing economic conditions. When ever a delay is granted for the commencement of construction, the permit would be subject to additional BACT review.

MEETING ATTENDEES

TCEQ, Air Permits Division
Chapter 116 Advisory Group
January 7, 2003
10:00 AM
TCEQ Main Campus, Austin

Sign-In Sheet

Attendee Name

(Please Print Legibly)

Carrie Phillips

ROHIT SHARMA

Carole Stapper

Jim Moore

Lisa Hite

DAV HORTON

Chad Scroggins

Brad Steever

AARON J. GARZA

Keith Courtney

Seth Randle

Chris Hansen
