

Permits by Rule (PBR) Certification Fact Sheet

Introduction

This fact sheet provides information on certifying emissions from certain facilities subject to the Federal or Texas Clean Air Acts. The following list is not inclusive of all reasons for which applicants may be asked to certify PBR registrations or claims.

Federal New Source Review Issues

For projects at existing major sites, 30 TAC 106.4(a) (1) establishes limits for production and planned MSS for each facility (piece of equipment) at ≤ 250 tons per year (tpy) Nitrogen Oxides (NO_x) and Carbon Monoxide (CO) or 25 tpy Volatile Organic Compounds (VOC), Particulate Matter (PM), Sulfur Dioxide (SO_2), and any other contaminant. However, these limits are greater than the triggers/ thresholds for major sources or major modifications under Nonattainment New Source Review (NNSR) or Prevention of Significant Deterioration (PSD).

- 5 tpy VOC or NO_x netting triggers for NNSR areas
 - 25 tpy, 50 tpy or 100 tpy NO_x for NNSR areas
 - 40 tpy or 100 tpy NO_x anywhere for PSD
 - 100 tpy CO anywhere for PSD
 - 15 tpy PM10 anywhere for PSD
 - 10 tpy PM2.5 anywhere for PSD
1. For projects at existing major sites, specific PBRs for plants or facilities may have no emission limits or allow emissions $>$ triggers or thresholds for major sources or major modifications under NNSR or PSD. Examples include, but are not limited to 106.261 allows 10 tpy of NO_x or VOC, but > 5 tpy VOC or NO_x are the netting triggers for NNSR areas.

If projects at major sites are NOT certified, Reviewers must make the following major source or major project applicability analysis:

- a. What federal review may be applicable? (NNSR or PSD)
 - b. Without consideration of any decreases in emissions, “total potential emission increases” must be less than netting or major source trigger levels. “Total emission increases” are based on the PBR rule limits, physical capacity/throughput of all facilities, continuous operation of 8760 hrs/yr, worst-case materials, and uncontrolled (unless the control is specified in the specific PBR). These increases must also include all planned MSS, whether registered or not, regardless of industry type.
 - c. If PSD: $\text{CO} \leq 100$ tpy, $\text{NO}_x \leq 40$ tpy, $\text{SO}_2 \leq 40$ tpy, $\text{VOC} \leq 40$ tpy, $\text{PM}_{10} \leq 25$ tpy, $\text{PM}_{2.5} \leq 10$ tpy (see PSD Guidance for additional air contaminant significance levels).
 - d. If NNSR: $\text{NO}_x \leq 5$ tpy, $\text{VOC} \leq 5$ tpy
 - e. If netting is not required, continue thru this list for other possible reasons to certify the project. If netting is required based on the above, the PBR claim may be certified to show that netting is not required or netting must be submitted and certified.
2. If a project includes control technology, limited hours, throughput, and materials or other operational limitations which are less than the Potential to Emit (PTE), EPA’s guidance is clear that these limitations must be federally enforceable. Establishing certified limits ensures EPA and Texas that these emissions can be relied upon for

federal permitting (PSD, NNSR, and 112g) or federal standards (NSPS, NESHAP, MACT) applicability. For additional guidance memos on PTE use the search tool on the Search Region 7 Air Pages EPA web page at www.epa.gov/region07/programs/artd/air/policy/search.html and search for “potential to emit.”

3. For projects at existing major sites, future-netting exercises for a site must rely on “creditable” increases or decreases. To be creditable, emission values must be federally enforceable. If not certified, future netting evaluations would have to rely on the facility is PTE or Chapter 106 rule limitations, which would often result in inaccurate data and could potentially, affect the outcome of the netting evaluations.

Planned Maintenance Startup and Shutdown (MSS)

4. If a project is located at a site which has passed the deadlines in 30 TAC 101.222(h), project must include planned MSS (even if emissions are zero) for determination of compliance with PBR rules (30 TAC 106.4(a)(1) at a minimum). If also at a major site, issues are the same as those listed in 1-3 above.

Toxics

5. If a project is in an Air Pollutant Watch List or Houston Toxics List area and has increases or decreases in any pollutants of concern, the TCEQ is strongly recommending the representations be federally enforceable.

Nonattainment

6. If a project is located at a site subject to NO_x Cap and Trade requirements (30 TAC 101), the amount of NO_x subject to that program must be federally enforceable.

Compliance Assurance

7. Certification establishes the basis for future compliance demonstrations and gives certainty to permit holders, regional investigators, permitting staff, and the general public. This certainly is especially important for Title V compliance certifications and deviation reports.
8. For projects which resolve compliance issues, in many cases Regional offices may request that PBRs be certified to ensure awareness of the requirements and expectations.

Other Rules and Requirements

9. For projects affecting facilities under Flexible Permits, 30 TAC 116.720 requires that any PBR claim not exceed the permitted flexible caps. This statement should be certified to ensure it is enforceable.
10. Projects under 30 TAC 106.261 and 106.262 can add waste streams to existing permitted control devices. This is acceptable since the PBR requirements only limit “no changes to or additions of air pollution abatement equipment” since this scenario does not change the existing control. However, to ensure no backsliding of permitting effectiveness or destruction efficiency, the applicant should certify that the additional stream or scenario would not affect the control’s DRE, thus ensuring continuing compliance with permitted representations of the control.