

Air Permit Reviewer Reference Guide

Federal Operating Permit Void Guidance

**Air Permits Division
Texas Commission on Environmental Quality
April 2021**

Table of Contents

General:	1
Change to Federal Regulation	2
Operational Changes at Site	2
Federally Enforceable Emission Limits	2
VOC and HAP Emission Limits	3
Maintenance, Startup and Shutdown (MSS) Emissions	3
Submitting An FOP Void Request	4
Forms:	4
Void Request:	4

Federal Operating Permit Void/Initial Issuance Application Withdrawal Guidance

General:

If a site is no longer subject to the requirements to have a federal operating permit (FOP) pursuant to Title 30 Texas Administrative Code (30 TAC) Chapter 122, the permit holder may submit a permit void request (20569) to have the site's FOP voided. For an initial issuance FOP application, if the site's major source status changes during the course of the application review and the site is no longer subject to 30 TAC Chapter 122, the owner or operator may request a **withdrawal of the initial issuance FOP application**. The requirement to demonstrate that a site is no longer subject to 30 TAC Chapter 122 is the same for an initial issuance FOP application withdrawal as it is for an FOP void. The remainder of this document will only discuss FOP voids.

Additional information on applicability to the FOP program can be found in the following documents:

- Title 30 Texas Administrative Code §122.120, and [guidance memos from the EPA](#)
- [Potential to Emit Guidance](#)
- [Program Applicability](#)

The FOP for certain non-major sources cannot be voided. These non-major sources must continue to comply with the requirements of 30 TAC Chapter 122, and they include the following:

- any site with an affected unit as defined in 40 Code of Federal Regulation (40 CFR) Part 72 subject to the requirements of the Acid Rain Program;
- any solid waste incineration unit required to obtain a permit under Federal Clean Air Act (FCAA), 129(e) (Permits); or
- any site which the United States Environmental Protection Agency (EPA), through rulemaking, has designated as no longer exempt or no longer eligible for a deferral from the obligation to obtain a permit; refer to [Non-major Sources Subject to 30 TAC Chapter 122](#) for a list of regulations.

Sites that have a Prevention of Significant Deterioration Permit or Nonattainment Permit pursuant to 30 TAC Chapter 116 that void their FOP may become subject to 30 TAC Chapter 122 in the future due to EPA action.

The following are common reasons why a site may no longer be subject to the requirements of 30 TAC Chapter 122:

- EPA changes a federal regulation that affects FOP applicability;
- the permit holder makes operational changes that reduces the site's potential to emit (PTE) below major source thresholds; or
- the permit holder establishes federally enforceable emission limits below major source thresholds.

A permit holder is obligated to comply with all terms and conditions of an FOP until the date the FOP void letter is issued by the Texas Commission on Environment Quality (TCEQ) Air Permits Division (APD).

Please note that if it is determined that the site meets the applicability criteria for an FOP under 30 TAC Chapter 122 after the FOP is voided, the owner or operator of the site may be subject to enforcement action.

Change to Federal Regulation

The EPA may revise a federal regulation or policy to change the FOP qualification criteria or to no longer require certain sources to comply with the requirements of an FOP. For example, 40 CFR Part 63, Subpart O (Ethylene Oxide Emissions Standards for Sterilization Facilities) was revised on December 19, 2005, to no longer require an area source (subject to this subpart) to obtain an FOP. However, the permit holder still has to demonstrate that the site's PTE is below the major source thresholds before the FOP may be voided. In the example above, the permit holder of an ethylene oxide sterilization facility has to demonstrate that the site's PTE is below 10 tpy for a single HAP and 25 tpy for total HAPs, and below the major source thresholds for other air pollutants as applicable.

Operational Changes at Site

Operational changes may reduce the site's PTE below major source thresholds. However, the operational changes need to be reflected in the site's preconstruction authorizations or be established in a certified registration to be federally enforceable. Additional information on federally enforceable emission limits is explained in the next section.

Following are two examples of operational changes and what needs to be done to make the emission limits federally enforceable.

An emission unit, authorized by a case-by-case new source review (NSR) permit, is removed from a site and results in the site's PTE being reduced below major source thresholds. The permit holder must submit a permit alteration, or some other appropriate action, to have the emission unit and its associated emissions removed from the case-by-case NSR permit.

The hours of operation for an emission unit, authorized by a permit by rule (PBR), were reduced and resulted in the site's PTE falling below major source thresholds. The permit holder must submit Form APD-CERT or another appropriate PBR action, to make the reduced operating hours and emission limits federally enforceable.

Federally Enforceable Emission Limits

Federally enforceable emission limits are established through preconstruction authorizations pursuant to 30 TAC Chapter 106 and Chapter 116, which include PBRs, case-by-case NSR permits, standard permits, and de minimis facilities or sources. Also, federally enforceable emission limits for certain emissions sources can be established, or reduced, through a certified registration using Form PI-7-CERT or Form APD-CERT. Additional information on federally enforceable emission limits can be found in the [Potential to Emit Guidance](#).

Form PI-7-CERT can be submitted to the TCEQ APD to register emission sources under PBRs, and at the same time, make the representations (including the emissions limits) in a PBR application federally enforceable. For emission sources that have been authorized by PBRs, but Form PI-7-CERT was not submitted for the PBR registration or claim, Form APD-CERT can be submitted to establish reduced federally enforceable emission limits.

Form APD-CERT cannot be used to lower the federally enforceable emission limits established in a case-by-case NSR permit or standard permit registration for the purpose of voiding an FOP. The permit holder can lower the federally enforceable emission limits in an NSR permit through the permit alteration or amendment process pursuant to 30 TAC Chapter 116, or possibly the pollution control standard permit

registration process pursuant to 30 TAC § 116.617. The permit holder can lower the federally enforceable emission limits in a standard permit registration by submitting a revised application for the standard permit registration.

Following is an example of a situation where Form APD-CERT can be used to establish reduced federally enforceable emission limits for the purpose of voiding an FOP.

A site located in an attainment county is a major source for carbon monoxide emissions. The site has only two compressor engines, which were authorized through a PBR registration. The carbon monoxide emissions represented in the PBR application Form PI-7 totaled 80 tpy (which is not federally enforceable). The PBR general limit for carbon monoxide emissions is 250 tpy (which is above the major source threshold of 100 tpy). In order to establish reduced federally enforceable emission limits for the purpose of voiding the FOP, the permit holder may submit Form APD-CERT to make the representations in the PBR application Form PI-7 federally enforceable or establish some other reduced federally enforceable emission limits for the site.

When Form APD-CERT is submitted to establish federally enforceable emission limits, the permit holder must follow the instructions on Form APD-CERT and submit all required information.

VOC and HAP Emission Limits

If a case-by-case NSR permit shows that volatile organic compound (VOC) emission limits are greater than 10 tpy, the case-by-case NSR permit needs to also identify the HAPs emission limits, to demonstrate that single HAP and total HAPs emission limits are below the major source thresholds. If HAPs emission limits are not identified in the case-by-case NSR permit, the permit holder needs to submit an NSR permit alteration or amendment to have the HAPs emission limits listed in the NSR permit. Blanket restrictions for HAPs emission limits may be listed in a case-by-case NSR permit and are federally enforceable. For example, the following may be listed in a case-by-case NSR permit: “< 10 tpy for any single HAP” and “< 25 tpy for total HAPs.” The HAPs blanket restrictions may apply to the case-by-case NSR permit or to the site, but it cannot supersede special conditions and emission limits in another case-by-case NSR permit for the site.

The representations in the case-by-case NSR permit application for an issued permit are federally enforceable. If the NSR application contains specific HAPs information to determine single HAP and total HAPs emission limits, that information can be used to demonstrate that the site is no longer a major source.

If Form APD-CERT is submitted with VOC emissions listed and there is a potential for single HAP or total HAPs emission limits to be above the major source thresholds, then single HAP and total HAPs emission limits must be identified. If there are no HAP emissions, document this on the form.

Maintenance, Startup and Shutdown (MSS) Emissions

A site’s PTE is the sum of all federally enforceable emission limits at the site, including all authorized planned maintenance, startup, and shutdown (MSS) emissions. If sites have planned MSS emissions that have not been authorized the MSS emissions must be: (1) authorized through NSR, (2) federally enforceable, and (3) included in the site’s PTE calculation.

Submitting an FOP Void Request

Forms:

[Air Permitting Authorization Void Request Form \(20569\)](#)

Submit this form with every FOP void request.

Void Request:

FOP Void Request – Site Shut Down

An FOP Air Permitting Authorization Void Request Form (20569) must be submitted. However, an APD-CERT is not needed, nor any other information, if all emission sources at the site were shut down and all preconstruction authorizations have been voided.

FOP Void Request with Federally Enforceable Emission Limit Demonstration

An FOP Air Permitting Authorization Void Request Form (20569) must be submitted with an accounting of all NSR authorizations incorporated by reference in the effective FOP and an accounting of all site emissions.

- The request should identify all PBRs incorporated by reference in the effective permit and indicate if any PBRs are no longer authorizing sources at the site. All other PBRs still authorizing sources at the site should be included in the accounting of all site emissions.
- All existing emission limits must be federally enforceable and demonstrate that the site's PTE is below major source thresholds (for example, an entire site is authorized under one case-by-case NSR permit and the MAERT shows that the site is not a major source for any criteria pollutants and not a major source of HAPs).

The emissions accounting, noted above, must be based on the federally enforceable PTE. The following table may be used to submit the site PTE information:

Date:
Permit No:
Regulated Entity No:

NSR Authorization Type and Number (if applicable)				Federally Enforceable Emission Limits (tons per year)					
Type	No.	VOC	NOx	CO	SO2	PM _{2.5}	PM ₁₀	HAPs	Other
Total:									

Notes:

1. A separate table may be used for each FOP for sites with multiple FOPs.
2. The table may be modified to fit the authorized air pollutants.

Either the FOP Air Permitting Authorization Void Request Form (20569) needs to be signed by the RO or DAR, or a completed [Form OP-CRO1](#) needs to be submitted with the FOP void request form.