



Protecting Texas
by Reducing and
Preventing Pollution

INTEROFFICE MEMORANDUM

DATE: September 23, 2003

TO: Air Permits Division

FROM:  Dale Beebe Farrow, P.E., Director

SUBJECT: Grandfathered Facilities - Permit Emission Rate Determination

The grandfathered facilities permits (small business, pipeline, existing, and electric generating) may not authorize emissions that would exceed a facility's highest historic emission rate.

The highest historic rate will be determined one of two ways:

- 1) use of data that shows the maximum annual emission rate at which the emission unit actually operated and emitted before September 1, 1971 for 12 consecutive months, including any increases authorized by a permit by rule;

or

- 2) best engineering judgement in the absence of records, i.e., use of data related to emissions (e.g., production, fuel firing, throughput, sulfur content, etc.) as appropriate, which are selected by the applicant and agreed upon by the executive director, to reasonably approximate the actual annual emission rate from any operational year.

Because both state and federal air pollution control programs were in infancy in 1971, stack testing or monitoring is unlikely to exist before 1971. The first emission inventory, conducted in 1973, was limited in scope and is not available today.

Where records before 1971 are not available, the earliest records that are available may guide judgment. Some facilities by nature, such as storage tanks or batch processes, do not operate near maximum emission rates 8,760 hours per year. Others, such as electric generating facilities, with historically improving efficiency, probably operated as base load units when first operated.

The grandfathered facilities permits are similar to the earlier voluntary emission reduction permits (VERP), and the basis of this memo is contained in the preamble guidance of the second-phase VERP rulemaking (the last paragraph, first column of page 8670, 25 Texas Register, September 1, 2000).

If a facility underwent physical changes after September 1, 1971 that caused an increase in emissions above levels achieved before September 1, 1971, the facility is not eligible for a grandfathered facilities permit and is required to permit in accordance with Title 30 Texas Administrative Code § 116.110(a).