

TCEQ PERMITS BY RULE (PBRs)

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BACKGROUND:

THE EVOLUTION OF PBRs

IN 1971, THE TEXAS LEGISLATURE AMENDED THE TEXAS CLEAN AIR ACT (TCAA) BY ADDING SECTION 3.27, WHICH REQUIRES THAT A PRE-CONSTRUCTION PERMIT BE GRANTED FOR ANY NEW OR MODIFIED FACILITY THAT MAY EMIT AIR CONTAMINANTS. THE EFFECTIVE DATE OF THIS LEGISLATIVE CHANGE WAS SEPTEMBER 1, 1971.

STANDARD EXEMPTIONS

Since the permitting authority granted to the State by the TCAA is comprehensive, many facilities that release air contaminants in very small quantities became subject to permitting requirements. To avoid unnecessary workload by the agency and useless delays to permit applicants, the agency developed a Standard Exemption list to authorize small sources. This list contains descriptions of specific equipment and processes deemed to be “insignificant” by the agency and exempt from permit review requirements. Examples of such equipment include water heaters, food preparation equipment, and comfort heating systems.

Over the years, the Standard Exemptions list grew to include over 200 sources. Subsequently, the TCEQ required some Standard Exemptions to be registered with the agency, while some were required to get site approval from the Regional Office prior to locating at a site.

In 1995, the Texas Legislature adopted a bill requiring the TCEQ to review the Standard Exemption list for protectiveness of human health, and to adopt Permits by Rule (PBR) to replace the list. In 1996, the TCEQ adopted Chapter 106, which contains the requirements to claim a PBR and 107 separate PBRs.

PBR GENERAL REQUIREMENTS

A PBR claim must meet both the specific requirements of the PBR being claimed and the general requirements of Chapter 106.4, which include the following:

- 1.** The total actual emissions authorized under PBR from the facility shall not exceed 250 ton per year (tpy) of carbon monoxide (CO) or nitrogen oxides (NO_x); 25 tpy of volatile organic compounds (VOC), sulfur dioxide (SO₂), or inhalable particulate matter (PM); 10 tpy of PM₁₀; 10 tpy of PM_{2.5}; or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.
- 2.** The proposed facility can not trigger the Major Stationary Source or Major Modification permit requirements of Part D of the Federal Clean Air Act (FCAA) relating to nonattainment permitting.
- 3.** The proposed facility can not trigger the Major Stationary Source or Major Modification permit requirements of Part C of the FCAA relation to Prevention of Significant Deterioration (PSD) permitting.
- 4.** Unless at least one facility at an account (site) has been subject to public notification and comment as required in Chapter 116, Subchapter B or Subchapter D, total actual emissions from all facilities permitted by rule at an account shall not exceed 250 tpy of CO or NO_x; 25 tpy of VOC, SO₂, or PM; 15 tpy of PM₁₀; 10 tpy of PM_{2.5}; or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.
- 5.** Construction or modification of a facility commenced on or after the effective date of a revision of this section or the effective date of a revision to a specific PBR in this chapter must meet the revised requirements to qualify for a PBR.
- 6.** A facility shall comply with all applicable provisions of the FCAA, Section 111 (Federal New Source Performance Standards) and Section 112 (Hazardous Air Pollutants) and the new source review requirements of the FCAA, Part C and Part D and regulations promulgated there under.
- 7.** There are no permits under the same commission account number that contain a condition or conditions precluding the use of a PBR under this chapter.
- 8.** The proposed facility or group of facilities shall obtain allowances for NO_x if they are subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program).
- 9.** No person may circumvent by artificial limitations the requirements of Section 116.110 of this title (relating to Applicability).
- 10.** The emissions from the facility shall comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.
- 11.** The facilities permitted by rule under this section are not exempted from any permits or registrations required by local air pollution control agencies. Any such requirements must be in accordance with TCAA, Section 382.113 and any other applicable law.
- 12.** Fees are required for facilities being authorized by PBRs with two exceptions. No fee is required for a PBR used solely to establish a federally enforceable limit, and no fee is required for a PBR authorizing a Remediation project. The fees are \$100 if the PBR applicant is small business as defined by the TCEQ, and \$450 for all others.

OUR SERVICES AND APPROACH:

SAGE'S STEP-BY-STEP ANALYSIS FOR MEETING PBR REQUIREMENTS

REQUIREMENTS

TCEQ air permitting options are sometimes confusing. Charting your way through the regulatory maze may require expert assistance. Sage provides proven technical service in this area and recommends taking the following step-by-step analysis:

SAGE PBR ANALYSIS

There are three types of PBRs currently listed in Chapter 106:

1. PBRs that do not require registration or TCEQ site approval
2. PBRs that require registration but not site approval
3. PBRs that require both registration and site approval

STEP 1 Sage analyzes the general requirements of Rule 106.4 and the specific requirements of the PBR that the client wants to claim. There is no wiggle room in the PBR process. You either meet the general and specific requirements exactly or you don't.

STEP 2 Sage determines if the project meets all eligibility requirements and requirements of the PBR under review. We then determine if the PBR requires registration or site approval with the TCEQ.

STEP 3 Sage evaluates whether the project meets all PBR requirements. If no registration is required, construction of the project may commence; if registration is required, go to Step 4.

STEP 4 If PBR requires registration but no site approval, then Sage files the required Form PI-7 so that construction may commence. If site approval is required, then go to Step 5.

STEP 5 Sage works with the facility to file the PI-7 form and contacts the TCEQ Regional Office to secure site approval of the proposed location. If there are any reservations by the agency in approving the site, Sage works with the agency to resolve issues.

ADMINISTRATIVE DATA

Sage coordinates with the facility and the TCEQ to incorporate all relevant documentation in support of the PBR. This includes all data elements of the Form PI-7, if required, including process descriptions, maps, process flow diagrams, and emissions calculations.

TIMING/PROCESS

If the PBR requires Form PI-7 registration, PBR reviews can take 60 days or longer depending upon TCEQ backlog. Sage generally requires 30 days to prepare a PBR package depending upon the availability of the required documentation information.