

Air Permit Reviewer Reference Guide

APDG 6280

Flexible Permit Application Review Summary

**Air Permits Division
Texas Commission on Environmental Quality
December 2014**

Contents

Flexible Permit Application Review Summary 1
Initial Flexible (Subchapter G) Permits 1
Flexible (Subchapter G) Permits Issued or Renewed Prior to September 12, 2014.. 1

Flexible Permit Application Review Summary

1. A State Implementation Plan (SIP) approved flexible permit¹ meets the following:
 - (a) the facilities are authorized by a new flexible permit in compliance with the SIP approved rules (the rules in Title 30 Texas Administrative Code (30 TAC) Chapter 116, Subchapter G, as most recently amended by commission action on July 2, 2014, effective July 31, 2014), or
 - (b) in an alteration, amendment or renewal action, the Air Permits Division (APD) makes a finding in the technical review that the **entire permit** meets the current rules in 30 TAC Chapter 116, Subchapter G. This finding will be documented in the Technical Review by providing a detailed analysis of how both (1) the unchanged conditions in the existing flexible permit in place prior to the permit action, and (2) all new or amended conditions meet the new SIP-approved rules.

Initial Flexible (Subchapter G) Permits

2. Applications for a SIP approved flexible permit will require a Best Available Control Technology (BACT) evaluation for all facilities that will be authorized by the flexible permit. If the application is for an existing authorized permit site, APD will review BACT for each facility at the time it was constructed or last modified. A current BACT analysis is required for all new or modified facilities.
3. New emission caps will be based on the BACT analysis provided by the applicant for a SIP approved flexible permit. Emission caps will be established as required by the SIP approved rules in 30 TAC Chapter 116, Subchapter G.

Flexible (Subchapter G) Permits Issued or Renewed Prior to September 12, 2014

4. A flexible permit **issued or renewed prior to September 12, 2014** is a valid state permit. However, it is not a SIP approved permit. A flexible permit issued or renewed prior to September 12, 2014 may be re-evaluated under the current 30 TAC Chapter 116, Subchapter G requirements to become SIP approved. At the applicant's request, through the appropriate application, APD will review the permit to ensure that the application and all individual facilities meet the requirements specified in No. 2 and 3 (see above).
5. For permit holders who continue to hold a flexible permit issued or renewed prior to September 12, 2014, APD will not require the permit holder to apply for a SIP approved flexible permit. Applications to deflex those permits or applications for alterations or amendments to existing flexible permits may be submitted at the discretion of the permit holder.

¹ EPA's SIP approval of 30 TAC Chapter 116, Subchapter G became effective 8/13/14. The compliance date for the flexible permit program rules adopted by TCEQ on or before 7/2/14 is 9/12/14. "SIP-approved" is a determination that is made by EPA, not TCEQ.

6. APD will not independently remove nor ask permit holders to request removal of any emissions in the permit that were added under the insignificant emission factor (IEF) (which allowed up to 9 percent (%), and therefore commonly referred to as the “9% factor”) when permit holders of existing flexible permits submit a renewal, alteration, or amendment application. However, flexible permit holders may request these emissions be removed from the flexible permit through the submittal of a permit application. APD will alter the permit to remove these emissions; however, to reiterate, this permit action is not required and will only be processed at the request of the permit holder. Further, APD will not analyze/address what, if any, portion of the emissions in the existing flexible permit, by use of the IEF, remain in the existing flexible permit. This action will not result in the existing flexible permit being “converted” into a SIP approved flexible permit. A BACT analysis will only be required for the change at/on a specific facility. At the applicant’s request, APD can amend the existing flexible permit by reviewing the permit to ensure that the application and all individual facilities meet the requirements specified in No. 2 and 3 (see above).
7. As part of the re-evaluation of a flexible permit issued or renewed prior to September 12, 2014, emission caps will be established based on the BACT analysis provided by the applicant for a SIP approved flexible permit. The applicant may propose emission caps at the same level as in the existing flexible permit Maximum Allowable Emission Rates Table or may have emission cap decreases based on the overall BACT evaluation provided by the applicant. Emission caps will be established as required by the SIP approved rules in 30 TAC §116.716.
8. For flexible permits issued or renewed prior to September 12, 2014, all emission increases to an emission cap or to an individual limit for a facility will require an amendment and possibly public notice with a current BACT analysis to ensure the flexible permit meets the requirements of 30 TAC Chapter 116, Subchapter G. Therefore, an applicant will not be able to rely on the original BACT analysis at the time of construction for any increase in emissions.
9. Renewals of flexible permits issued or renewed prior to September 12, 2014 will be reviewed to ensure that the permit meets the SIP-approved rules in 30 TAC Chapter 116, Subchapter G. APD will review the permit to ensure that the application and all individual facilities meet the requirements specified in No. 2 and 3 (see above). At the time of permit renewal, all facilities are required to be operating in accordance with all requirements and conditions of all current Texas Commission on Environmental Quality (TCEQ) air quality rules.
10. Permit holders with “deflex” applications on hold should contact APD to inform them of their decision to pursue the deflex process. APD may use the current application voidance procedures to address deficient and incomplete applications. Pending deflex applications will be processed prior to permit renewal applications; however, this does not relieve the permit holder’s obligation to submit a timely renewal application prior to permit expiration.