



**Action:** There are three different scenarios that will determine whether and how a PBR or SP should be incorporated into a permit. Certain PBR/SP incorporations would be mandatory and referred to as *rolled into* a permit. Other PBR/SP incorporations would be voluntary, but the same procedures will be used (including BACT and impacts review) and therefore will also be referred to as *rolled into* a permit. Finally, some PBR/SP could be incorporated *by reference* (does not need BACT or specific impacts review).

This memorandum supercedes all previous memos on this subject and is effective immediately and is only for PBR/SP actions from this date forward. Consistent with the policy memo titled "Applicable Date of Conditions of an Exemption from Permitting" dated 8/31/98, PBR (and SP) claims are effective on the date of facility construction or change, not registration or reply from the commission. This includes BACT determinations and impacts evaluation criteria.

If the implementation of this memo causes a real and practical problem in the field, entities may appeal to the executive director through the appropriate management levels, beginning with the permit reviewer or Team Leader. In addition, the executive director intends to propose rulemaking for PBR/SP incorporation procedures in Chapter §116 and this memorandum will expire upon adoption of any revised rules. This rule proposal is tentatively scheduled for commission consideration December 14, 2005.

### **Rolling Into Permit**

PBR/SPs which are *rolled* into permits following §§116.116 and 116.615 will be voided and the facilities will become authorized by the permit, including limitations in permit conditions and maximum allowable emission rate table (MAERT), as appropriate.

Applicants have the flexibility to represent the maximum potential to emit (PTE) of their facilities based on capacity or design, as long as these values are less than any PBR conditions or the general requirements of §106.4. If the quantity of emissions is greater than these amounts, the incremental difference is required to be reviewed under permit amendment procedures.

Applicants may also voluntarily represent any emission value less than PTE for inclusion on the permit MAERT and the values listed will become federally enforceable limits. It should also be noted that SP representations become limitations and any emission limits in the registration or on a table are already federally enforceable limits.

Reference to these voided PBR/SP registrations will also be included in the Technical Review Summary and final action letters. The PBR/SP can only be rolled into a permit during an amendment or renewal review. Due to the definition of modification and facility under law, PBR/SP registrations which authorized new facilities or changes in method of control to existing facilities can only be rolled into a permit during an amendment, not a renewal. All other PBR/SP will be rolled into the permit at renewal or amendment.

Facilities authorized by PBR/SP which are rolled into permits will be subject to an impacts review based on the agency's Modeling Effects Review (MERA) Flowchart and "Air Quality Modeling Guidelines". As with all authorizations, the intent of the TCAA §382.002 must be met to ensure protection of public health and welfare. During the rule process for PBR or SP, the impacts of only the changes to permitted units, or new facilities are considered, not the potential of other emissions at the site, and therefore additional evaluation should be performed as a part of subsequent permit reviews.

As sites add emissions, the impacts analysis during permit reviews has always required a comprehensive evaluation of all emissions when certain circumstances are met (quantity, character, location). The “project” increases include all PBR and SP to be rolled into the permit as well as all other changes which are requested in the permit review. This includes the step where the “project” is compared to 10% of the ESL for modeling applicability. The impacts review referred to in this memo is not a new requirement, but a clarification of the scope expected by the guidance document, MERA flowchart, and the memo titled “Incorporating PBR Emissions in Permit Review” dated April 2005. The results of any analysis or modeling must follow standard procedures and guidance when compared to Effects Screening Levels (ESLs), state regulatory limits, or National Ambient Air Quality Standard (NAAQS). As with any review, if impacts are unacceptable, changes must be proposed by the applicant before a positive recommendation to issue can be made. Facilities/changes previously authorized by PBR/SP can operate during permit review and if needed, the time line for changes will be negotiated in the Special Conditions.

Following the modeling guidance documents, impacts reviews may be performed during permit reviews to ensure cumulative site-wide analysis (PBR, SP, and permits). If an impact analysis is submitted as part of a PBR or SP registration which follows the same guidelines that would be covered during a permit review, and would still be current at the next Amendment or Renewal review, additional analysis may not be required if nothing at the site has changed, or APD guidance and policy have not changed. However, depending on the scope and details of the impacts analysis submitted during a PBR or SP review, the registration may be delayed so the impacts analysis can be evaluated and audited in accordance with standard procedures.

These facilities will also be subject to a best available control technology (BACT) evaluation. BACT review is required since §116.116(b) requires incorporation into a permit, meaning become authorized by that permit. To be authorized by a permit a facility must meet §382.0518(b)(1) BACT standards at the time of permit issuance. As stipulated by the definition of BACT and 3<sup>rd</sup> Tier analysis option, economic reasonableness is always available for consideration, especially for incremental increases in emissions authorized by PBR.

The exception to the application of BACT follows §382.057(a) which states that any pollution control project SP (§116.617) is exempt from §382.0518 BACT requirements, including during roll-in.

Rolling in a PBR will not be required to meet the public notice requirements listed in §39.402 since this rule is intended for emission increases which are not previously authorized. Rolling in a SP will not be considered for public notice requirements since there will not be an increase in emissions since representations and allowable emissions are enforceable limits. No additional amendment or renewal fees will be charged when rolling in a PBR/SP, as these facilities are previously authorized.

All PBR/SP to be rolled in are expected to be an integral part of an amendment or renewal and the length of time for review will depend on the completeness of the application.

### **Referenced in Permit**

PBR/SPs which are included by *reference* into permits will remain authorized by the PBR or SP, however the permit will identify the facilities and reference the registration or claim in the permit conditions and MAERT. The facilities will be listed by registration number (if assigned), hourly and annual emissions type and amount, effective date of PBR/SP, and any other unique historical information. Applicants have the flexibility to represent the maximum potential to emit (PTE) of their facilities based on capacity or design, as long as these values are less than any PBR conditions or the general requirements of §106.4. Applicants may also voluntarily represent any emission value less than PTE for inclusion on the permit MAERT. Registrations for these PBR/SP will not be voided and no additional review is required. These PBR/SP registrations/claims will also be referenced the Technical Review Summary and company final action letter.

### **Mandatory vs. Voluntary**

The following are three scenarios which describe when rolling in and referencing PBR/SP should occur:

**Mandatory Roll-in:** Facilities, or changes to facilities, authorized by any PBR that directly modified or increased the emissions of a permitted facility, including but not limited to §§106.261 or 106.262, must be rolled into the permit during any amendment or renewal. Facilities constructed under PBR/SP or changes to the method of emissions control must also be rolled into the permit during amendment. At this time, this does not include maintenance, start-up or shutdown emissions authorized by PBR or SP.

**Voluntary Roll-in:** Any PBR/SP which does not directly modify or increase the emissions of a permitted facility can be rolled into a permit only at the company's request during an amendment or renewal review. Voluntary rolling in of PBR/SP must meet the requirements for mandatory roll-in as described above. These PBR/SP may include addition of new facilities that does not directly modify or increase the emissions from a permitted facility, but does affect permitted operations. At a minimum, the facilities authorized by these PBR/SP must be referenced in the permit that is being amended or renewed.

**Voluntary Reference:** There are PBR/SP that authorize stand-alone, independent facilities and processes. These PBR/SP do not directly modify or in any way affect permitted facilities. In these cases, it is completely voluntary to roll-in or reference these PBR/SP in the permit during amendment or renewal. In most cases, these PBR/SP may be referenced, following the procedures mentioned above.

**Major sites with Title V Permits:** Any PBR/SP rolled into an NSR permit would trigger a minor revision to a Title V federal operating permit and can be processed along with any other changes due to the amendment of the NSR permit.