

B. CAM Regulations

CAM is implemented through 40 CFR part 64 and 40 CFR 70.6(a)(3)(i)(A) and requires title V permits to include “all monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including [40 CFR part] 64 * * *” 40 CFR 64.5 provides that CAM applies at permit renewal unless the permit holder has not filed a title V permit application by April 20, 1998, or the title V permit application has not been determined to be administratively complete by April 20, 1998. CAM also applies to a title V permit holder who filed a significant permit revision under title V after April 20, 1998.

The TCEQ previously implemented CAM through either a CAM GOP or a case-by-case CAM determination. The TCEQ’s use of a phased approach did not ensure that all permits would include CAM required by 40 CFR 70.6(a)(3)(i)(A), according to the schedule in 40 CFR 64.5, because a facility did not have to apply for a CAM GOP until two years after the CAM GOP had been issued. To address the NOD, TCEQ has revised the Sections of Chapter 122 relating to application content and permit content, to ensure that all permits, including GOPs, include CAM requirements according to the schedule in 40 CFR 64.5. The TCEQ amended Section 122.132(e)(12) to specify that applications for units subject to CAM must be submitted according to the schedule specified in 40 CFR 64.5. The TCEQ amended Section 122.142(h) to require that permits contain CAM in accordance with the schedule in 40 CFR 64.5. The TCEQ adopted new Section 122.221(b)(4) to specify that the Executive Director may issue a significant permit revision if CAM is included for large pollutant-specific emission units, consistent with 40 CFR 64.5(a)(2). The TCEQ also adopted Section 122.147, which specifies the terms and conditions that apply to units subject to CAM requirements, and Section 122.604 which address CAM applicability. These new and revised rules require that all permits issued after the effective date of the rule include CAM according to the schedule in 40 CFR part 64. We are today proposing to approve the revised, amended, and new rules as a revision to Texas’ title V program and to find that the revisions satisfy Texas’ requirement to correct the program deficiency identified in the January 7, 2002, NOD.

C. Periodic Monitoring and CAM General Operating Permits

The content requirements for part 70 permits are set forth in 40 CFR 70.6 and include periodic monitoring and CAM as permit conditions of all title V permits. Also, 40 CFR 70.6(d)(1) provides that “any general permit shall comply with all requirements applicable to other part 70 permits.” The TCEQ previously implemented CAM and periodic monitoring requirements through CAM and periodic monitoring GOPs which did not meet title V’s definition of, or requirements for, general permits. The terms and conditions of Texas’ periodic monitoring GOPs and CAM GOPs contained only monitoring requirements, monitoring options, and related monitoring requirements for certain applicable requirements and therefore were missing a number of the requirements of 40 CFR 70.6.

To address the NOD, TCEQ amended Chapter 122 to require that all GOPs include periodic monitoring and CAM, and to eliminate the monitoring GOP process. To ensure that all permits are issued containing periodic monitoring and CAM, the TCEQ adopted amendments requiring periodic monitoring and CAM to be addressed in permit applications and to be included in issued permits. As discussed above, revised Section 122.132(e)(12) specifies that applications for units subject to CAM must contain elements specified in 40 CFR 64.3, Monitoring Design Criteria, and 40 CFR 64.4, Submittal Requirements. Revised Section 122.132(e)(13) requires that applications for all initial permit issuances, renewals, reopenings, and significant and minor permit revisions include periodic monitoring requirements. The TCEQ amended Section 122.142(c), which previously specified that periodic monitoring is only included as required by the Executive Director, and Section 122.142(h), which previously specified that permits include CAM as specified in Subchapter H. The amendments state that permits must contain periodic monitoring and CAM in accordance with the schedule in 40 CFR 64.5. These amendments will require permits to contain all requirements specified in 40 CFR 70.6. The TCEQ eliminated the monitoring GOP process by adopting the repeal of all Sections from Subchapters G and H that implemented monitoring through the GOP process. In addition to the previously mentioned periodic monitoring sections that were repealed, TCEQ repealed all of the CAM requirements contained in Subchapter H. The CAM applicability section and

the section pertaining to quality improvement plans are adopted under Subchapter G, renamed Periodic Monitoring and Compliance Assurance Monitoring. The TCEQ also adopted several amendments to Chapter 122 to clarify periodic monitoring and CAM implementation and to delete any reference to the monitoring GOP process.

The TCEQ also amended the GOP definition at Section 122.10(11) to specify that multiple similar sources may be authorized to operate under a GOP, consistent with the requirement at 40 CFR 70.6(d) that general permits are limited to numerous similar sources. Section 122.501(a)(1) requires the Executive Director to issue GOPs with conditions that provide for compliance with all requirements of Chapter 122. The TCEQ also revised Section 122.161 to make related miscellaneous changes.

We are today proposing to approve the new and revised rules and the repeals as a revision to Texas’ title V program and to find that the revisions satisfy Texas’ requirement to correct the program deficiency identified in the January 7, 2002, NOD.

D. Statement of Basis Requirement

40 CFR 70.7(a)(5) requires that “[t]he permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to EPA and to any other person who requests it.” The TCEQ regulations previously had no State regulation directly corresponding to 40 CFR 70.7(a)(5). To address the NOD, TCEQ adopted new Section 122.201(a)(4), which requires that all permits issued by the Executive Director must include a statement that sets forth the legal and factual basis for the conditions of the permit, including references to the applicable statutory or regulatory provisions. The Executive Director will send this statement to EPA and any person who requests it. The statement of basis is required for all initial issuances, revisions, renewals and reopenings of permits. We are today proposing to approve the new rule as a revision to Texas’ title V program and to find that the revisions satisfy Texas’ requirement to correct the program deficiency identified in the January 7, 2002, NOD.

E. Definition of Applicable Requirement

Texas’ definition of “applicable requirement” in 30 TAC 122.10(2) previously did not include all the applicable provisions of its SIP that