

which meet the new source review requirements of Title I, part C or part D of the Act. A facility which qualifies for a PBR must also comply with all applicable provisions of section 111 of the Act (Standards of Performance for New Stationary Sources or New Source Performance Standards (NSPS)) and section 112 of the Act (National Emission Standards for Hazardous Air Pollutants (NESHAP)) (section 106.4(a)(6)). Furthermore, a facility which qualifies for a PBR must comply with all rules and regulations of TCEQ (section 106.4(c)).

D. Are Texas' PBR Approvable?

The PBR are approvable as meeting the requirements of 40 CFR part 51, subpart I—Review of New Sources and Modifications (subpart I).¹ Section 106.1 provides that only certain types of facilities or changes within facilities which do not make a significant contribution of air contaminants to the atmosphere are eligible for a PBR. This satisfies the requirements of 40 CFR 51.160(a) which provides that the SIP must include procedures that enable the permitting authority to determine whether the construction or modification will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a national ambient air quality standard.

Section 106.4 further provides additional requirements that a facility must meet to qualify for a PBR. Such requirements include:

- Limiting PBR only to facilities which are authorized to emit no more than 250 tpy of CO or NO_x; or 25 tpy of VOCs, SO₂, or inhalable PM₁₀; or 25 tpy of any other air contaminant, except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen. This meets 40 CFR 51.160(e), which provides that the SIP must identify the types and sizes of facilities which will be subject to review.

- Any facility or group of facilities which constitutes a new major source of major modification under part C or D of Title I of the Act must be permitted under regulations for Nonattainment Review or Prevention of Significant Deterioration of Air Quality. Such sources are not eligible for a PBR. This meets 40 CFR 51.165 (Permit requirements) and 51.166 (Prevention of significant deterioration of air quality).

- Sources qualifying for a PBR must meet all applicable requirements under

section 111 of the Act (NSPS) and section 112 of the Act (NESHAP), and must comply with all rules of TCEQ. This satisfies the requirements of 40 CFR 51.160(d) which require that approval of any construction or modification must not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy.

- Subchapter A includes all the administrative requirements which support the issuance and enforcement of PBR. This includes registration of emissions which limit a source's PTE (section 106.6), and Recordkeeping, which requires each source subject to a PBR to maintain records sufficient to demonstrate compliance with all conditions of the applicable PBR (section 106.8). These provisions satisfy the requirements in 40 CFR 51.163, which require the plan to contain the administrative procedures that will be followed in making the determination under 40 CFR 51.160(a). It also meets the requirements of 40 CFR 51.211 which requires the owner or operator to maintain records and to periodically report to the State the nature and amounts of emissions and information necessary to determine whether a source is in compliance.

- All PBR must be adopted or revised through rulemaking to incorporate the PBR into the applicable Subchapters under Chapter 106. Such new or revised PBR must undergo public notice and a 30-day comment period, and TCEQ must address all comments received from the public before finalizing its action to issue or revise a PBR. This meets the requirements of 40 CFR 51.161, which requires the permitting authority to provide for opportunity for public comment on the State's analysis of the effect of construction or modification on ambient air quality.

The TSD contains further information on how Subchapter A of Chapter 106 meets the requirements of subpart I.

E. Why Are We Only Approving Subchapter A of Chapter 106?

Texas submitted Subchapter A because that subchapter contains the process by which TCEQ will issue or modify PBR. Subpart A contains the provisions which apply to all PBR and which ensure that individual PBR meet the requirements of subpart I. The individual PBR are adopted in Subchapters B through X, of Chapter 106.² In 1996, Texas codified its existing Standard Exemptions into Subchapters B through X and redesignated them to

PBR in 2000. Because these existing Standard Exemptions were adopted under section 116.6, which is currently SIP-approved, they meet the requirements of subpart I. Furthermore, new and amended PBR are adopted in accordance with the general requirements in Subchapter A, which meet the applicable requirements of subpart I as discussed above. Accordingly, our approval of Subchapter A of Chapter 106 is sufficient to assure that the PBR meet the requirements in subpart I.

F. What Other Actions Are We Taking in Relation to PBR?

The provisions for PBR in Chapter 106 replace the former provisions for exemptions from permitting which we had approved in section 116.6—Exemptions. Because Chapter 106 replaced the exemptions previously authorized under section 116.6, we are removing section 116.6 from the SIP.

IV. Final Action Concerning Revisions to Chapter 116—Control of Air Pollution by Permits for New Construction or Modification

A. Subchapter A—Definitions

1. What Are We Approving?

We are approving section 116.14—Standard Permit Definitions. Section 116.14 includes definitions of the following terms as they are used in Chapter 116, Subchapter F—Standard Permits: Off-plant receptor, oil and gas facility, and sulfur recovery unit.

2. Are These Definitions Approvable?

These definitions are approvable based upon their being comparable to corresponding terms defined elsewhere in EPA regulations. Specifically, the definition of “off-plant receptor” is consistent with the definition of “ambient air” in 40 CFR 50.1(e). The definitions of “oil and gas facility” and “sulfur recovery unit” are consistent with the terms “natural gas processing plant” and “sulfur recovery plant” as defined in 40 CFR 60.630 and 60.641 respectively. The TSD contains further information on our basis for approving these definitions. These definitions support the provisions of Subchapter F (Standard Permits) which we are also approving.

B. Subchapter B—New Source Review Permits (for minor sources)

1. What Are We Approving?

We are approving revisions to the following: section 116.110—Applicability; section 116.115—General and Special Conditions, and section 116.116—Changes to Facilities.

¹ Subpart I contains the provisions that a SIP must include to address the construction of new sources and the modification of existing sources. Subpart I includes sections 51.160–51.166.

² Subchapters B through X of Chapter 106 were not submitted to EPA approval as SIP revisions.