

W-82 also noted that the proposal does not carry a reference to hazardous waste incineration, adding that this is acceptable if the TACB intends to address this issue under federal regulations or TACB Regulation VI. W-134 suggested that the proposed definition of "medical waste" might not be consistent with TDH's proposed definition published in the April 20, 1990, issue of the *Texas Register*. They noted that the TDH's proposed definition of "medical waste" does not include garbage or rubbish generated from non-health care activities. They also state that proposed TDH rules exempt on-site incinerators burning only medical waste.

While the proposal does not contain a definition of "hazardous waste," the staff maintained that this term was implied as a subset of industrial solid waste and, therefore, did not add a separate definition. TACB Regulation VI deals with the control of new or amended sources through the permit review process, while Regulation I sets minimum standards for all existing sources. A hazardous waste incinerator, therefore, would be controlled by Regulation I if already in existence. There are also federal requirements regarding such incinerators.

Regarding the issue of changes in TDH definitions, the staff attempted to retain consistency with other regulating agencies by using definitions in effect at the time the proposal was published. If questions arise in the future as a result of other agencies changing their definitions or rules, those issues will be resolved. In the meantime, the staff believed that it was in the best interest of public health and air quality to institute the proposed rules as soon as possible, using the proposed definitions.

Zero-23 and W-61 maintained that the TACB should use the term "waste" instead of "solid waste," because not all waste is solid and liquid materials can carry disease and should be regulated. W-58 stated that the proposed §111.123 would apply to fossil-fueled utility boilers because of the very general definition of "incinerator" and suggested rewording of the definition. Finally, W-65 had two comments: that the TACB needed to add a definition of "automatic feed mechanisms" and a definition of what constitutes "operating procedures," noting that some such procedures can be lengthy and should be posted where they are easily accessible to facility operators.

According to federal Resource Conservation and Recovery Act definitions, which are also used by the TWC, solid waste can be composed of solid, liquid, and containerized gaseous waste. Thus, the term encompasses all types of waste. The staff believed that the definition should be consistent with federal and state definitions of the same term and did not amend it at this time, except, as noted above, in the case of the definition of "industrial solid waste." The staff did not intend to preclude fossil-fueled utility boilers from the proposed rules; rather, the staff intended to include any type of incinerator regardless of its location and type of waste burned. The language suggested by W-58 would exempt incinerators which the staff believes need to be regulated to protect against adverse health effects. Therefore, the staff did not change the language as suggested.

The staff has deleted references to "auto-

matic feed mechanisms" and, thus, did not add a definition of this term. Similarly, the staff has added language regarding posting of lengthy incinerator guidelines, so did not amend the definition of "operating procedures."

The amendment is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to adopt rules and regulations consistent with the policy and purposes of the TCAA.

§101.1. Definitions. Unless specifically defined in the Act or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the Texas Clean Air Act, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

Commercial medical waste incinerator—A facility that accepts for incineration medical waste generated outside the property boundaries of the facility.

Industrial solid waste—Waste resulting from or incidental to a process of industry or manufacturing, or mining or agricultural operations, which may include hazardous waste.

Medical waste—Waste materials identified by the Texas Department of Health as "Special Waste from Health Care-Related Facilities" and those waste materials commingled and discarded with special waste from health care-related facilities. **Municipal solid waste**—Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste except industrial solid waste.

Special waste from health care-related facilities—A solid waste which if improperly treated or handled may serve to transmit infectious disease(s) and which is comprised of the following: animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 24, 1990.

TRD-9011234 Lane Hartsock
Director, Planning and
Development Program
Texas Air Control Board

Proposal publication date: November 14, 1990

For further information, please call: (512) 451-5711, ext. 433

Chapter 111. Control of Air Pollution From Visible Emissions and Particulate Matter

Visible Emissions

• 31 TAC §111.111

The Texas Air Control Board (TACB) adopts an amendment to §111.111, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2328). The purpose of the amendment is to add test methods for railroad locomotives, ships, and other structures.

Public hearings were held in Austin and Houston on May 17, 1990. Testimony was received from five commenters during the comment period which closed June 18. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal. All five commenters (three private citizens, the Lone Star Chapter of the Sierra Club, and the Houston Regional Chapter of the Sierra Club) questioned the proposed section regarding visible emissions. There were no commenters in favor of the proposal.

A complete summary of comments and a discussion of issues follows. Copies of the written testimony and hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas 78723.

All five commenters argued that opacity limits for railroad locomotives, ships, and other structures should be tightened in §111.111, especially in the case of locomotives, which often move through neighborhoods.

The amendment was adopted in order to establish applicable testing requirements. A change in opacity for these facilities was not proposed, and thus, is beyond the scope of the hearing.

The amendment is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to adopt rules and regulations consistent with the policy and purposes of the TCAA.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9011236 Lane Hartsock
Director, Planning and
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