

SUBCHAPTER A: GENERAL RULES
§§101.1 - 101.5, 101.8 - 101.10, 101.13, 101.14, 101.18 - 101.21,
101.23, 101.24, 101.26 - 101.28
Effective July 28, 2016

§101.1. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following terms, when used in the air quality rules in this title, have the following meanings, unless the context clearly indicates otherwise.

(1) Account--For those sources required to be permitted under Chapter 122 of this title (relating to Federal Operating Permits Program), all sources that are aggregated as a site. For all other sources, any combination of sources under common ownership or control and located on one or more contiguous properties, or properties contiguous except for intervening roads, railroads, rights-of-way, waterways, or similar divisions.

(2) Acid gas flare--A flare used exclusively for the incineration of hydrogen sulfide and other acidic gases derived from natural gas sweetening processes.

(3) Agency established facility identification number--For the purposes of Subchapter F of this chapter (relating to Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities), a unique alphanumeric code required to be assigned by the owner or operator of a regulated entity that the emission inventory reporting requirements of §101.10 of this title (relating to Emissions Inventory Requirements) are applicable to each facility at that regulated entity.

(4) Ambient air--That portion of the atmosphere, external to buildings, to which the general public has access.

(5) Background--Background concentration, the level of air contaminants that cannot be reduced by controlling emissions from man-made sources. It is determined by measuring levels in non-urban areas.

(6) Boiler--Any combustion equipment fired with solid, liquid, and/or gaseous fuel used to produce steam or to heat water.

(7) Capture system--All equipment (including, but not limited to, hoods, ducts, fans, booths, ovens, dryers, etc.) that contains, collects, and transports an air pollutant to a control device.

(8) Captured facility--A manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.

(9) Carbon adsorber--An add-on control device that uses activated carbon to adsorb volatile organic compounds from a gas stream.

(10) Carbon adsorption system--A carbon adsorber with an inlet and outlet for exhaust gases and a system to regenerate the saturated adsorbent.

(11) Coating--A material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, thinners, diluents, inks, maskants, and temporary protective coatings.

(12) Cold solvent cleaning--A batch process that uses liquid solvent to remove soils from the surfaces of parts or to dry the parts by spraying, brushing, flushing, and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

(13) Combustion unit--Any boiler plant, furnace, incinerator, flare, engine, or other device or system used to oxidize solid, liquid, or gaseous fuels, but excluding motors and engines used in propelling land, water, and air vehicles.

(14) Combustion turbine--Any gas turbine system that is gas and/or liquid fuel fired with or without power augmentation. This unit is either attached to a foundation or is portable equipment operated at a specific minor or major source for more than 90 days in any 12-month period. Two or more gas turbines powering one shaft will be treated as one unit.

(15) Commercial hazardous waste management facility--Any hazardous waste management facility that accepts hazardous waste or polychlorinated biphenyl compounds for a charge, except a captured facility that disposes only waste generated on-site or a facility that accepts waste only from other facilities owned or effectively controlled by the same person.

(16) Commercial incinerator--An incinerator used to dispose of waste material from retail and wholesale trade establishments.

(17) Commercial medical waste incinerator--A facility that accepts for incineration medical waste generated outside the property boundaries of the facility.

(18) Component--A piece of equipment, including, but not limited to, pumps, valves, compressors, and pressure relief valves that has the potential to leak volatile organic compounds.

(19) Condensate--Liquids that result from the cooling and/or pressure changes of produced natural gas. Once these liquids are processed at gas plants or refineries or in any other manner, they are no longer considered condensates.

(20) Construction-demolition waste--Waste resulting from construction or demolition projects.

(21) Control system or control device--Any part, chemical, machine, equipment, contrivance, or combination of same, used to destroy, eliminate, reduce, or control the emission of air contaminants to the atmosphere.

(22) Conveyorized degreasing--A solvent cleaning process that uses an automated parts handling system, typically a conveyor, to automatically provide a continuous supply of parts to be cleaned or dried using either cold solvent or vaporized solvent. A conveyorized degreasing process is fully enclosed except for the conveyor inlet and exit portals.

(23) Criteria pollutant or standard--Any pollutant for which there is a national ambient air quality standard established under 40 Code of Federal Regulations Part 50.

(24) Custody transfer--The transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(25) De minimis impact--A change in ground level concentration of an air contaminant as a result of the operation of any new major stationary source or of the operation of any existing source that has undergone a major modification that does not exceed the significance levels as specified in 40 Code of Federal Regulations §51.165(b)(2).

(26) Domestic wastes--The garbage and rubbish normally resulting from the functions of life within a residence.

(27) Emissions banking--A system for recording emissions reduction credits so they may be used or transferred for future use.

(28) Emissions event--Any upset event or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in unauthorized emissions of air contaminants from one or more emissions points at a regulated entity.

(29) Emissions reduction credit--Any stationary source emissions reduction that has been banked in accordance with Subchapter H, Division 1 of this chapter (relating to Emission Credit Program).

(30) Emissions reduction credit certificate--The certificate issued by the executive director that indicates the amount of qualified reduction available for use as offsets and the length of time the reduction is eligible for use.

(31) Emissions unit--Any part of a stationary source that emits, or would have the potential to emit, any pollutant subject to regulation under the Federal Clean Air Act.

(32) Excess opacity event--When an opacity reading is equal to or exceeds 15 additional percentage points above an applicable opacity limit, averaged over a six-minute period.

(33) Exempt solvent--Those carbon compounds or mixtures of carbon compounds used as solvents that have been excluded from the definition of volatile organic compound.

(34) External floating roof--A cover or roof in an open top tank that rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them.

(35) Federal motor vehicle regulation--Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, 40 Code of Federal Regulations Part 85.

(36) Federally enforceable--All limitations and conditions that are enforceable by the United States Environmental Protection Agency administrator, including those requirements developed under 40 Code of Federal Regulations (CFR) Parts 60 and 61; requirements within any applicable state implementation plan (SIP); and any permit requirements established under 40 CFR §52.21 or under regulations approved under 40 CFR Part 51, Subpart 1, including operating permits issued under the approved program that is incorporated into the SIP and that expressly requires adherence to any permit issued under such program.

(37) Flare--An open combustion unit (i.e., lacking an enclosed combustion chamber) whose combustion air is provided by uncontrolled ambient air around the flame, and that is used as a control device. A flare may be equipped with a radiant heat shield (with or without a refractory lining), but is not equipped with a flame air control damping system to control the air/fuel mixture. In addition, a flare may also use auxiliary fuel. The combustion flame may be elevated or at ground level. A vapor combustor, as defined in this section, is not considered a flare.

(38) Fuel oil--Any oil meeting the American Society for Testing and Materials (ASTM) specifications for fuel oil in ASTM D396-01, Standard Specifications for Fuel Oils, revised 2001. This includes fuel oil grades 1, 1 (Low Sulfur), 2, 2 (Low Sulfur), 4 (Light), 4, 5 (Light), 5 (Heavy), and 6.

(39) Fugitive emission--Any gaseous or particulate contaminant entering the atmosphere that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening designed to direct or control its flow.

(40) Garbage--Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, and handling and sale of produce and other food products.

(41) Gasoline--Any petroleum distillate having a Reid vapor pressure of four pounds per square inch (27.6 kilopascals) or greater that is produced for use as a motor fuel, and is commonly called gasoline.

(42) Greenhouse gases (GHGs)--the aggregate group of six greenhouse gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

(43) Hazardous wastes--Any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*, as amended.

(44) Heatset (used in offset lithographic printing)--Any operation where heat is required to evaporate ink oil from the printing ink. Hot air dryers are used to deliver the heat.

(45) High-bake coatings--Coatings designed to cure at temperatures above 194 degrees Fahrenheit.

(46) High-volume low-pressure spray guns--Equipment used to apply coatings by means of a spray gun that operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the air cap.

(47) Incinerator--An enclosed combustion apparatus and attachments that is used in the process of burning wastes for the primary purpose of reducing its volume and weight by removing the combustibles of the waste and is equipped with a flue for conducting products of combustion to the atmosphere. Any combustion device that burns 10% or more of solid waste on a total British thermal unit (Btu) heat input basis averaged over any one-hour period is considered to be an incinerator. A combustion device without instrumentation or methodology to determine hourly flow rates of solid waste and burning 1.0% or more of solid waste on a total Btu heat input basis averaged annually is also considered to be an incinerator. An open-trench type (with closed ends) combustion unit may be considered an incinerator when approved by the executive director. Devices burning untreated wood scraps, waste wood, or sludge from the treatment of wastewater from the process mills as a primary fuel for heat recovery are not included under this definition. Combustion devices permitted under this title as combustion devices other than incinerators will not be considered incinerators for application of any rule within this title provided they are installed and operated in compliance with the condition of all applicable permits.

(48) Industrial boiler--A boiler located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

(49) Industrial furnace--Cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, or refining furnaces, including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, or foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and other devices the commission may list.

(50) Industrial solid waste--Solid waste resulting from, or incidental to, any process of industry or manufacturing, or mining or agricultural operations, classified as follows.

(A) Class 1 industrial solid waste or Class 1 waste is any industrial solid waste designated as Class 1 by the executive director as any industrial solid waste or mixture of industrial solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported,

or otherwise managed, including hazardous industrial waste, as defined in §335.1 and §335.505 of this title (relating to Definitions and Class 1 Waste Determination).

(B) Class 2 industrial solid waste is any individual solid waste or combination of industrial solid wastes that cannot be described as Class 1 or Class 3, as defined in §335.506 of this title (relating to Class 2 Waste Determination).

(C) Class 3 industrial solid waste is any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in §335.507 of this title (relating to Class 3 Waste Determination).

(51) Internal floating cover--A cover or floating roof in a fixed roof tank that rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell.

(52) Leak--A volatile organic compound concentration greater than 10,000 parts per million by volume or the amount specified by applicable rule, whichever is lower; or the dripping or exuding of process fluid based on sight, smell, or sound.

(53) Liquid fuel--A liquid combustible mixture, not derived from hazardous waste, with a heating value of at least 5,000 British thermal units per pound.

(54) Liquid-mounted seal--A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

(55) Maintenance area--A geographic region of the state previously designated nonattainment under the Federal Clean Air Act Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under 42 United States Code, §7505a, as described in 40 Code of Federal Regulations Part 81 and in pertinent *Federal Register* notices.

(56) Maintenance plan--A revision to the applicable state implementation plan, meeting the requirements of 42 United States Code, §7505a.

(57) Marine vessel--Any watercraft used, or capable of being used, as a means of transportation on water, and that is constructed or adapted to carry, or that carries, oil, gasoline, or other volatile organic liquid in bulk as a cargo or cargo residue.

(58) Mechanical shoe seal--A metal sheet that is held vertically against the storage tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

(59) Medical waste--Waste materials identified by the Department of State Health Services as "special waste from health care-related facilities" and those waste materials commingled and discarded with special waste from health care-related facilities.

(60) Metropolitan Planning Organization--That organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 United States Code (USC), §134 and 49 USC, §1607.

(61) Mobile emissions reduction credit--The credit obtained from an enforceable, permanent, quantifiable, and surplus (to other federal and state rules) emissions reduction generated by a mobile source as set forth in Chapter 114, Subchapter F of this title (relating to Vehicle Retirement and Mobile Emission Reduction Credits), and that has been banked in accordance with Subchapter H, Division 1 of this chapter (relating to Emission Credit Program).

(62) Motor vehicle--A self-propelled vehicle designed for transporting persons or property on a street or highway.

(63) Motor vehicle fuel dispensing facility--Any site where gasoline is dispensed to motor vehicle fuel tanks from stationary storage tanks.

(64) 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.

(65) Municipal solid waste facility--All contiguous land, structures, other appurtenances, and improvements on the land used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

(66) Municipal solid waste landfill--A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 Code of Federal Regulations §257.2. A municipal solid waste landfill (MSWLF) unit also may receive other types of Resource Conservation and Recovery Act Subtitle D wastes, such as commercial solid waste, nonhazardous sludge,

conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. An MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

(67) National ambient air quality standard--Those standards established under 42 United States Code, §7409, including standards for carbon monoxide, lead, nitrogen dioxide, ozone, inhalable particulate matter, and sulfur dioxide.

(68) Net ground-level concentration--The concentration of an air contaminant as measured at or beyond the property boundary minus the representative concentration flowing onto a property as measured at any point. Where there is no expected influence of the air contaminant flowing onto a property from other sources, the net ground level concentration may be determined by a measurement at or beyond the property boundary.

(69) New source--Any stationary source, the construction or modification of which was commenced after March 5, 1972.

(70) Nitrogen oxides (NO_x)--The sum of the nitric oxide and nitrogen dioxide in the flue gas or emission point, collectively expressed as nitrogen dioxide.

(71) Nonattainment area--A defined region within the state that is designated by the United States Environmental Protection Agency (EPA) as failing to meet the national ambient air quality standard (NAAQS or standard) for a pollutant for which a standard exists. The EPA will designate the area as nonattainment under the provisions of 42 United States Code, §7407(d). For the official list and boundaries of nonattainment areas, see 40 Code of Federal Regulations (CFR) Part 81 and pertinent *Federal Register* notices. The designations and classifications for the one-hour ozone national ambient air quality standard in 40 CFR Part 81 were retained for the purpose of anti-backsliding and upon determination by the EPA that any requirement is no longer required for purposes of anti-backsliding, then that requirement no longer applies.

(72) Non-reportable emissions event--Any emissions event that in any 24-hour period does not result in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in this section.

(73) Opacity--The degree to which an emission of air contaminants obstructs the transmission of light expressed as the percentage of light obstructed as measured by an optical instrument or trained observer.

(74) Open-top vapor degreasing--A batch solvent cleaning process that is open to the air and that uses boiling solvent to create solvent vapor used to clean or dry parts through condensation of the hot solvent vapors on the parts.

(75) Outdoor burning--Any fire or smoke-producing process that is not conducted in a combustion unit.

(76) Particulate matter--Any material, except uncombined water, that exists as a solid or liquid in the atmosphere or in a gas stream at standard conditions.

(A) Particulate matter with diameters less than 10 micrometers (PM_{10})--Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on 40 Code of Federal Regulations (CFR) Part 50, Appendix J, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated with that Part 53.

(B) Particulate matter with diameters less than 2.5 micrometers ($PM_{2.5}$)--Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated with that Part 53.

(77) Particulate matter emissions--All finely-divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by United States Environmental Protection Agency Reference Method 5, as specified at 40 Code of Federal Regulations (CFR) Part 60, Appendix A, modified to include particulate caught by an impinger train; by an equivalent or alternative method, as specified at 40 CFR Part 51; or by a test method specified in an approved state implementation plan.

(A) Direct PM emissions--Solid particles emitted directly from an air emissions source or activity, or gaseous emissions or liquid droplets from an air emissions source or activity which condense to form particulate matter at ambient temperatures. Direct 2.5 micrometers ($PM_{2.5}$) emissions include elemental carbon, directly emitted organic carbon, directly emitted sulfate, directly emitted nitrate, and other inorganic particles (including but not limited to crustal materials, metals, and sea salt).

(B) Secondary PM emissions--Those air pollutants other than $PM_{2.5}$ direct emissions that contribute to the formation of $PM_{2.5}$. $PM_{2.5}$ precursors include sulfur dioxide (SO_2), nitrogen oxides (NO_x), volatile organic compounds, and ammonia.

(78) Petroleum refinery--Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude oil, or through the redistillation, cracking, extraction, reforming, or other processing of unfinished petroleum derivatives.

(79) PM_{2.5} emissions--Finely-divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method specified in 40 Code of Federal Regulations Part 51, or by a test method approved under a state implementation plan or under a United States Environmental Protection Agency delegation or approval.

(80) PM₁₀ emissions--Finely-divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method specified in 40 Code of Federal Regulations Part 51, or by a test method specified in an approved state implementation plan.

(81) Polychlorinated biphenyl compound--A compound subject to 40 Code of Federal Regulations Part 761.

(82) Process or processes--Any action, operation, or treatment embracing chemical, commercial, industrial, or manufacturing factors such as combustion units, kilns, stills, dryers, roasters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit smoke, particulate matter, gaseous matter, or visible emissions.

(83) Process weight per hour--"Process weight" is the total weight of all materials introduced or recirculated into any specific process that may cause any discharge of air contaminants into the atmosphere. Solid fuels charged into the process will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during that the equipment used to conduct the process is idle. For continuous operation, the "process weight per hour" will be derived by dividing the total process weight for a 24-hour period by 24.

(84) Property--All land under common control or ownership coupled with all improvements on such land, and all fixed or movable objects on such land, or any vessel on the waters of this state.

(85) Reasonable further progress--Annual incremental reductions in emissions of the applicable air contaminant that are sufficient to provide for attainment of the applicable national ambient air quality standard in the designated nonattainment areas by the date required in the state implementation plan.

(86) Regulated entity--All regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated

by the same person. The term includes any property under common ownership or control identified in a permit or used in conjunction with the regulated activity at the same street address or location. Owners or operators of pipelines, gathering lines, and flowlines under common ownership or control in a particular county may be treated as a single regulated entity for purposes of assessment and regulation of emissions events.

(87) Remote reservoir cold solvent cleaning--Any cold solvent cleaning operation in which liquid solvent is pumped to a sink-like work area that drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

(88) Reportable emissions event--Any emissions event that in any 24-hour period, results in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in this section.

(89) Reportable quantity (RQ)--Is as follows:

(A) for individual air contaminant compounds and specifically listed mixtures by name or Chemical Abstracts Service (CAS) number, either:

(i) the lowest of the quantities:

(I) listed in 40 Code of Federal Regulations (CFR) Part 302, Table 302.4, the column "final RQ";

(II) listed in 40 CFR Part 355, Appendix A, the column "Reportable Quantity"; or

(III) listed as follows:

(-a-) acetaldehyde - 1,000 pounds, except in the Houston-Galveston-Brazoria (HGB) and Beaumont-Port Arthur (BPA) ozone nonattainment areas as defined in paragraph (71) of this section, where the RQ must be 100 pounds;

(-b-) butanes (any isomer) - 5,000 pounds;

(-c-) butenes (any isomer, except 1,3-butadiene) - 5,000 pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (71) of this section, where the RQ must be 100 pounds;

(-d-) carbon monoxide - 5,000 pounds;

- 142b) - 5,000 pounds;
- 5,000 pounds;
- 5,000 pounds;
- 5,000 pounds;
- 5,000 pounds;
- (HCFC-124) - 5,000 pounds;
- (HCFC-124a) - 5,000 pounds;
- (HFC 43-10mee) - 5,000 pounds;
- 141b) - 5,000 pounds;
- pentafluoropropane (HCFC-225ca) - 5,000 pounds;
- pentafluoropropane (HCFC-225cb) - 5,000 pounds;
- (CFC-114) - 5,000 pounds;
- 114a) - 5,000 pounds;
- (HCFC-123a) - 5,000 pounds;
- (-e-) 1-chloro-1,1-difluoroethane (HCFC-
- (-f-) chlorodifluoromethane (HCFC-22) -
- (-g-) 1-chloro-1-fluoroethane (HCFC-151a) -
- (-h-) chlorofluoromethane (HCFC-31) -
- (-i-) chloropentafluoroethane (CFC-115) -
- (-j-) 2-chloro-1,1,1,2-tetrafluoroethane
- (-k-) 1-chloro-1,1,2,2 tetrafluoroethane
- (-l-) 1,1,1,2,3,4,4,5,5,5-decafluoropentane
- (-m-) decanes (any isomer) - 5,000 pounds;
- (-n-) 1,1-dichloro-1-fluoroethane (HCFC-
- (-o-) 3,3-dichloro-1,1,2,2-
- (-p-) 1,3-dichloro-1,1,2,2,3-
- (-q-) 1,2-dichloro-1,1,2,2-tetrafluoroethane
- (-r-) 1,1-dichlorotetrafluoroethane (CFC-
- (-s-) 1,2-dichloro-1,1,2-trifluoroethane

(-t-) 1,1-difluoroethane (HFC-152a) - 5,000 pounds;

(-u-) difluoromethane (HFC-32) - 5,000 pounds;

(-v-) ethanol - 5,000 pounds;

(-w-) ethylene - 5,000 pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (71) of this section, where the RQ must be 100 pounds;

(-x-) ethylfluoride (HFC-161) - 5,000 pounds;

(-y-) 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea) - 5,000 pounds;

(-z-) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa) - 5,000 pounds;

(-aa-) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea) - 5,000 pounds;

(-bb-) hexanes (any isomer) - 5,000 pounds;

(-cc-) isopropyl alcohol - 5,000 pounds;

(-dd-) mineral spirits - 5,000 pounds;

(-ee-) octanes (any isomer) - 5,000 pounds;

(-ff-) oxides of nitrogen - 200 pounds in ozone nonattainment, ozone maintenance, early action compact areas, Nueces County, and San Patricio County, and 5,000 pounds in all other areas of the state, which should be used instead of the RQs for nitrogen oxide and nitrogen dioxide provided in 40 CFR Part 302, Table 302.4, the column "final RQ";

(-gg-) pentachlorofluoroethane (CFC-111) - 5,000 pounds;

(-hh-) 1,1,1,3,3-pentafluorobutane (HFC-365mfc) - 5,000 pounds;

pounds; (-ii-) pentafluoroethane (HFC-125) - 5,000

245ca) - 5,000 pounds; (-jj-) 1,1,2,2,3-pentafluoropropane (HFC-

245ea) - 5,000 pounds; (-kk-) 1,1,2,3,3-pentafluoropropane (HFC-

245eb) - 5,000 pounds; (-ll-) 1,1,1,2,3-pentafluoropropane (HFC-

245fa) - 5,000 pounds; (-mm-) 1,1,1,3,3-pentafluoropropane (HFC-

pounds; (-nn-) pentanes (any isomer) - 5,000

(-oo-) propane - 5,000 pounds;

the HGB and BPA ozone nonattainment areas as defined in paragraph (71) of this section, where the RQ must be 100 pounds;

(CFC-112) - 5,000 pounds; (-qq-) 1,1,2,2-tetrachlorodifluoroethane

(CFC-112a) - 5,000 pounds; (-rr-) 1,1,1,2-tetrachlorodifluoroethane

5,000 pounds; (-ss-) 1,1,2,2-tetrafluoroethane (HFC-134) -

5,000 pounds; (-tt-) 1,1,1,2-tetrafluoroethane (HFC-134a) -

(CFC-113) - 5,000 pounds; (-uu-) 1,1,2-trichloro-1,2,2-trifluoroethane

(CFC-113a) - 5,000 pounds; (-vv-) 1,1,1-trichloro-2,2,2-trifluoroethane

(HCFC-123) - 5,000 pounds; (-ww-) 1,1,1-trifluoro-2,2-dichloroethane

5,000 pounds; (-xx-) 1,1,1-trifluoroethane (HFC-143a) -

pounds; (-yy-) trifluoromethane (HFC-23) - 5,000

(-zz-) toluene - 1,000 pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (71) of this section, where the RQ must be 100 pounds; or

(-aaa-) 3-Pentanone, 1,1,1,2,2,4,5,5,5-nonafluoro-4-(trifluoromethyl)-, CAS No. 756-13-8, or C6 fluoroketone - 5,000 pounds;

(ii) if not listed in clause (i) of this subparagraph, 100 pounds;

(iii) for greenhouse gases, individually or collectively, there is no reportable quantity, except for the specific individual air contaminant compounds listed in this paragraph;

(B) for mixtures of air contaminant compounds:

(i) where the relative amount of individual air contaminant compounds is known through common process knowledge or prior engineering analysis or testing, any amount of an individual air contaminant compound that equals or exceeds the amount specified in subparagraph (A) of this paragraph;

(ii) where the relative amount of individual air contaminant compounds in subparagraph (A)(i) of this paragraph is not known, any amount of the mixture that equals or exceeds the amount for any single air contaminant compound that is present in the mixture and listed in subparagraph (A)(i) of this paragraph;

(iii) where each of the individual air contaminant compounds listed in subparagraph (A)(i) of this paragraph are known to be less than 0.02% by weight of the mixture, and each of the other individual air contaminant compounds covered by subparagraph (A)(ii) of this paragraph are known to be less than 2.0% by weight of the mixture, any total amount of the mixture of air contaminant compounds greater than or equal to 5,000 pounds; or

(iv) where natural gas excluding carbon dioxide, water, nitrogen, methane, ethane, noble gases, hydrogen, and oxygen or air emissions

from crude oil are known to be in an amount greater than or equal to 5,000 pounds or the associated hydrogen sulfide and mercaptans in a total amount greater than 100 pounds, whichever occurs first;

(C) for opacity from boilers and combustion turbines as defined in this section fueled by natural gas, coal, lignite, wood, fuel oil containing hazardous air pollutants at a concentration of less than 0.02% by weight, opacity that is equal to or exceeds 15 additional percentage points above the applicable limit, averaged over a six-minute period. Opacity is the only RQ applicable to boilers and combustion turbines described in this paragraph; or

(D) for facilities where air contaminant compounds are measured directly by a continuous emission monitoring system providing updated readings at a minimum 15-minute interval an amount, approved by the executive director based on any relevant conditions and a screening model, that would be reported prior to ground level concentrations reaching at any distance beyond the closest regulated entity property line:

(i) less than one-half of any applicable ambient air standards; and

(ii) less than two times the concentration of applicable air emission limitations.

(90) Rubbish--Nonputrescible solid waste, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

(91) Scheduled maintenance, startup, or shutdown activity--For activities with unauthorized emissions that are expected to exceed a reportable quantity (RQ), a scheduled maintenance, startup, or shutdown activity is an activity that the owner or operator of the regulated entity whether performing or otherwise affected by the activity, provides prior notice and a final report as required by §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements); the notice or final report includes the information required in §101.211 of this title; and the actual unauthorized emissions from the activity do not exceed the emissions estimates submitted in the initial notification by more than an RQ. For activities with unauthorized emissions that are not expected to, and do not, exceed an RQ, a scheduled maintenance, startup, or shutdown activity is one that is recorded as required by §101.211 of this title. Expected excess opacity events as described in §101.201(e) of this title

(relating to Emissions Event Reporting and Recordkeeping Requirements) resulting from scheduled maintenance, startup, or shutdown activities are those that provide prior notice (if required), and are recorded and reported as required by §101.211 of this title.

(92) Sludge--Any solid or semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant; water supply treatment plant, exclusive of the treated effluent from a wastewater treatment plant; or air pollution control equipment.

(93) Smoke--Small gas-born particles resulting from incomplete combustion consisting predominately of carbon and other combustible material and present in sufficient quantity to be visible.

(94) Solid waste--Garbage, rubbish, refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control equipment, and other discarded material, including solid, liquid, semisolid, or containerized gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Texas Water Code, Chapter 26;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land, if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas, or geothermal resources, and other substance or material regulated by the Railroad Commission of Texas under Texas Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, as amended (42 United States Code, §§6901 *et seq.*).

(95) Sour crude--A crude oil that will emit a sour gas when in equilibrium at atmospheric pressure.

(96) Sour gas--Any natural gas containing more than 1.5 grains of hydrogen sulfide per 100 cubic feet, or more than 30 grains of total sulfur per 100

cubic feet.

(97) Source--A point of origin of air contaminants, whether privately or publicly owned or operated. Upon request of a source owner, the executive director shall determine whether multiple processes emitting air contaminants from a single point of emission will be treated as a single source or as multiple sources.

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

(99) Standard conditions--A condition at a temperature of 68 degrees Fahrenheit (20 degrees Centigrade) and a pressure of 14.7 pounds per square inch absolute (101.3 kiloPascals).

(100) Standard metropolitan statistical area--An area consisting of a county or one or more contiguous counties that is officially so designated by the United States Bureau of the Budget.

(101) Submerged fill pipe--A fill pipe that extends from the top of a tank to have a maximum clearance of six inches (15.2 centimeters) from the bottom or, when applied to a tank that is loaded from the side, that has a discharge opening entirely submerged when the pipe used to withdraw liquid from the tank can no longer withdraw liquid in normal operation.

(102) Sulfur compounds--All inorganic or organic chemicals having an atom or atoms of sulfur in their chemical structure.

(103) Sulfuric acid mist/sulfuric acid--Emissions of sulfuric acid mist and sulfuric acid are considered to be the same air contaminant calculated as H_2SO_4 and must include sulfuric acid liquid mist, sulfur trioxide, and sulfuric acid vapor as measured by Test Method 8 in 40 Code of Federal Regulations Part 60, Appendix A.

(104) Sweet crude oil and gas--Those crude petroleum hydrocarbons that are not "sour" as defined in this section.

(105) Total suspended particulate--Particulate matter as measured by the method described in 40 Code of Federal Regulations Part 50, Appendix B.

(106) Transfer efficiency--The amount of coating solids deposited onto the surface or a part of product divided by the total amount of coating solids delivered to the coating application system.

(107) True vapor pressure--The absolute aggregate partial vapor

pressure, measured in pounds per square inch absolute, of all volatile organic compounds at the temperature of storage, handling, or processing.

(108) Unauthorized emissions--Emissions of any air contaminant except water, nitrogen, ethane, noble gases, hydrogen, and oxygen that exceed any air emission limitation in a permit, rule, or order of the commission or as authorized by Texas Health and Safety Code, §382.0518(g).

(109) Unplanned maintenance, startup, or shutdown activity--For activities with unauthorized emissions that are expected to exceed a reportable quantity or with excess opacity, an unplanned maintenance, startup, or shutdown activity is:

(A) a startup or shutdown that was not part of normal or routine facility operations, is unpredictable as to timing, and is not the type of event normally authorized by permit; or

(B) a maintenance activity that arises from sudden and unforeseeable events beyond the control of the operator that requires the immediate corrective action to minimize or avoid an upset or malfunction.

(110) Upset event--An unplanned and unavoidable breakdown or excursion of a process or operation that results in unauthorized emissions. A maintenance, startup, or shutdown activity that was reported under §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), but had emissions that exceeded the reported amount by more than a reportable quantity due to an unplanned and unavoidable breakdown or excursion of a process or operation is an upset event.

(111) Utility boiler--A boiler used to produce electric power, steam, or heated or cooled air, or other gases or fluids for sale.

(112) Vapor combustor--A partially enclosed combustion device used to destroy volatile organic compounds by smokeless combustion without extracting energy in the form of process heat or steam. The combustion flame may be partially visible, but at no time does the device operate with an uncontrolled flame. Auxiliary fuel and/or a flame air control damping system that can operate at all times to control the air/fuel mixture to the combustor's flame zone, may be required to ensure smokeless combustion during operation.

(113) Vapor-mounted seal--A primary seal mounted so there is an annular space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof or cover.

(114) Vent--Any duct, stack, chimney, flue, conduit, or other device used to conduct air contaminants into the atmosphere.

(115) Visible emissions--Particulate or gaseous matter that can be detected by the human eye. The radiant energy from an open flame is not considered a visible emission under this definition.

(116) Volatile organic compound--As defined in 40 Code of Federal Regulations §51.100(s), except §51.100(s)(2) - (4), as amended on March 27, 2014 (79 FR 17037).

(117) Volatile organic compound (VOC) water separator--Any tank, box, sump, or other container in which any VOC, floating on or contained in water entering such tank, box, sump, or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

Adopted July 6, 2016

Effective July 28, 2016

§101.2. Multiple Air Contaminant Sources or Properties.

(a) In an area where an additive effect occurs from the accumulation of air contaminants from two or more sources on a single property or from two or more properties, such that the level of air contaminants exceeds the ambient air quality standards established by the commission, and each source or each property is emitting no more than the allowed limit for an air contaminant for a single source or from a single property, further reduction of emissions from each source or property shall be made as determined by the commission.

(b) Two or more property owners, or operators acting on behalf of a property owner, may petition the commission to have their properties designated a single property for purposes of demonstrating compliance with commission regulations and the control of air emissions.

(1) The use of this section is intended for:

(A) a property under the control of a single entity that has been or will be divided and placed under the control of separate entities, creating a new property line configuration; or

(B) properties operated or intended to be operated as an integrated plant or plants where individual facilities are owned by separate entities, but all facilities are under the control of a single entity.

(2) The petition shall be subject to the following criteria.

(A) The properties must be contiguous except for intervening roads, railroads, and/or rights-of-way, which are a part of the property. Emission points separated by a public right-of-way cannot be combined into a single property designation.

(B) All owners of real property, including but not limited to, fee interest owners and leaseholders, within the single property designation boundary must consent to the agreement. Owners of mineral interests only are not required to consent to the agreement.

(C) The petition shall include the following information:

(i) a general description of the manner in which the control of emissions and demonstration of compliance with commission regulations will be administered and controlled;

(ii) designation of the party or parties who accept responsibility for off-property impacts;

(iii) the existing account number(s) for each petitioner;
and

(iv) a description of how the petitioners meet the requirements of this rule.

(D) The petition shall be accompanied by:

(i) a copy of a sworn written agreement between the property owners who consent to having their properties so designated which must detail the mechanisms of control exercised on both properties;

(ii) a United States Geological Survey map or equivalent indicating:

(I) geographical features such as roads, watercourses, and prominent landmarks;

(II) present land uses in the areas surrounding the area to be included;

(III) the boundaries of the petitioners' properties;
and

(IV) the area to be included in the single property designation; and

(iii) any other information needed by the commission in its review of the petition.

(E) The executive director or commission may place such conditions on the approval of the petition as appropriate to avoid a condition of air pollution or ensure compliance with state and federal regulations.

(F) The executive director may approve a petition for single property designation or an amendment to an existing designation unless otherwise prohibited by law if:

(i) the petition meets all relevant statutory and administrative criteria;

(ii) the petition does not raise new issues that require the interpretation of commission policy; and

(iii) the public interest counsel does not raise objections.

(c) In this section, the terms `Aproperty@` or `Aproperties@` includes leasehold and fee interests in real property, and it does not include mineral interests.

Adopted December 1, 1999

Effective December 23, 1999

§101.3. Circumvention.

No person shall use any plan, activity, device or contrivance which the executive director determines will, without resulting in an actual reduction of air contaminants, conceal or appear to minimize the effects of an emission which would otherwise constitute a violation of the Act or regulations. Air introduced for dilution purposes only is considered a circumvention of the regulations.

Adopted March 30, 1979

Effective May 6, 1979

§101.4. Nuisance.

No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

Adopted March 30, 1979

Effective May 6, 1979

§101.5. Traffic Hazard.

No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use.

Adopted March 30, 1979

Effective May 6, 1979

§101.8. Sampling.

(a) Any person owning or operating a source which emits air contaminants into the air of this state shall, upon request by the Texas Natural Resource Conservation Commission (TNRCC or commission) or the executive director, conduct sampling to determine the opacity, rate, composition, and/or concentration of such emissions. Sampling shall be conducted at a frequency and within a period of time which are reasonable as specified by the commission or executive director. The sampling method shall be specified by the commission or executive director and, further, the sampling shall be conducted so as to reflect with reasonable accuracy the above listed characteristics of such emissions.

(b) Any person affected by subsection (a) of this section may request the executive director to approve alternate sampling techniques or other means to determine the opacity, rate, composition, and/or concentration of emissions. The executive director may approve such alternate methods or means if it can be demonstrated that such alternatives will be substantially equivalent to the sampling methods specified by the executive director or the commission.

(c) If requested to obtain air contaminants emission data pursuant to subsection (a) of this section, the owner or operator shall attest to and report the results so obtained to the executive director within a reasonable time specified by and on forms furnished by the executive director.

(d) Copies of all data, the computations, and results obtained under subsection (a) of this section shall be retained by the owner or operator of a source for at least five years and shall be made available to the commission, or any members, employees or agents thereof, and to any local air pollution control agencies, during regular business hours.

Adopted March 30, 1979

Effective May 6, 1979

§101.9. Sampling Ports.

Any person, at the request of the Texas Natural Resource Conservation Commission (TNRCC or commission), shall provide in connection with each flue a power source near the point of testing in addition to such sampling and testing facilities and sampling ports, including safe and easy access thereto, exclusive of instruments and sensing devices, as may be necessary for the commission to determine the nature and quality of emissions which are or may be discharged as a result of source operations. Evidence and data based on these samples and calculations may be used to substantiate violations of the Act, rules, and regulations. Agents of the commission shall be permitted to sample the stacks during operating hours.

Adopted March 30, 1979

Effective May 6, 1979

§101.10. Emissions Inventory Requirements.

(a) Applicability. The owner or operator of an account or source in the State of Texas or on waters that extend 9.0 nautical miles from the shoreline meeting one or more of the following conditions shall submit emissions inventories or related data as required in subsection (b) of this section to the commission on media approved by the commission:

(1) an account which meets the definition of a major facility/stationary source, as defined in §116.12 of this title (relating to Nonattainment and Prevention of Significant Deterioration Review Definitions);

(2) any account in an ozone nonattainment area emitting a minimum of ten tons per year (tpy) volatile organic compounds (VOC), 25 tpy nitrogen oxides (NO_x), or 100 tpy or more of any other contaminant subject to National Ambient Air Quality Standards (NAAQS);

(3) any account that emits 0.5 tpy or more of lead (Pb);

(4) any account that emits or has the potential to emit 100 tpy or more of any contaminant, except for greenhouse gases as listed in §101.1 of this title (relating to Definitions) individually or collectively;

(5) any account which emits or has the potential to emit 10 tpy of any single or 25 tpy of aggregate hazardous air pollutants as defined in Federal Clean Air Act (FCAA), §112(a)(1); and

(6) any minor industrial source, area source, non-road mobile source, or mobile source of emissions subject to special inventories under subsection (b)(3) of this section. For purposes of this section, the term "area source" means a group of similar activities that, taken collectively, produce a significant amount of air pollution.

(b) Types of inventories.

(1) Initial emissions inventory. Accounts, as identified in subsection (a)(1), (2), (3), (4), or (5) of this section, shall submit an initial emissions inventory (IEI) for any criteria pollutant or hazardous air pollutant (HAP) that has not been identified in a previous inventory. The IEI shall consist of actual emissions of VOC, NO_x, carbon monoxide (CO), sulfur dioxide (SO₂), Pb, particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM₁₀), particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers (PM_{2.5}), any other contaminant subject to an NAAQS, emissions of all HAPs identified in FCAA, §112(b), or any other contaminant requested by the commission from individual emission units within an account. For purposes of this section, the term "actual emission" is the actual rate of emissions of a pollutant from an emissions unit as it enters the atmosphere. The reporting year will be the calendar year or seasonal period as designated by the commission. Reported emission activities must include annual routine emissions; excess emissions occurring during maintenance activities, including start-ups and shutdowns; and emissions resulting from upset conditions. For the ozone nonattainment areas, the inventory shall also include typical weekday emissions that occur during the summer months. For CO nonattainment areas, the inventory shall also include typical weekday emissions that occur during the winter months. Emission calculations must follow methodologies as identified in subsection (c) of this section.

(2) Statewide annual emissions inventory update (AEIU). Accounts meeting the applicability requirements during an inventory reporting period as identified in subsection (a)(1), (2), (3), (4), or (5) of this section shall submit an AEIU that consists of actual emissions as identified in paragraph (1) of this subsection if any of the following criteria are met. If none of the following criteria are met, a letter certifying such shall be submitted instead:

(A) any change in operating conditions, including start-ups, permanent shut-downs of individual units, or process changes at the account, that results in at least a 5.0% or 5 tpy, whichever is greater, increase or reduction in total annual emissions of VOC, NO_x, CO, SO₂, Pb, PM₁₀, or PM_{2.5} from the most recently submitted emissions data of the account; or

(B) a cessation of all production processes and termination of operations at the account.

(3) Special inventories. Upon request by the executive director or a designated representative of the commission, any person owning or operating a source of air emissions which is or could be affected by any rule or regulation of the commission shall file emissions-related data with the commission as necessary to

develop an inventory of emissions. Owners or operators submitting the requested data may make special procedural arrangements with the Emissions Assessment Section to submit data separate from routine emission inventory submissions or other arrangements as necessary to support claims of confidentiality.

(c) Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) is the preferred method of calculating emissions from a source. If CEMS data is not available, other means for determining actual emissions may be utilized in accordance with detailed instructions of the commission. Sample calculations representative of the processes in the account must be submitted with the inventory.

(d) Certifying statements.

(1) A certifying statement, required by FCAA, §182(a)(3)(B), is to be signed by the owner(s) or operator(s) and shall accompany each emissions inventory to attest that the information contained in the inventory is true and accurate to the best knowledge of the certifying official.

(2) A certifying statement, required by Texas Health and Safety Code, §382.0215(f) is to be signed by the owner(s) or operators(s) required to submit an emissions inventory and shall be submitted with each emission inventory if no emissions events were experienced at the site during the reporting year to the best knowledge of the certifying official.

(e) Reporting requirements. The IEI or subsequent AEIUs shall contain emissions data from the previous calendar year and shall be due on March 31 of each year or as directed by the commission. Owners or operators submitting emissions data may make special procedural arrangements with the Emissions Assessment Section to submit data separate from routine emission inventory submissions or other arrangements as necessary to support claims of confidentiality. Emissions-related data submitted under a special inventory request made under subsection (b)(3) of this section are due as detailed in the letter of request.

(f) Enforcement. Failure to submit emissions inventory data as required in this section shall result in formal enforcement action under Texas Water Code, Chapter 7.

Adopted July 6, 2016

Effective July 28, 2016

§101.13. Use and Effect of Rules.

These rules may be used by the Texas Natural Resource Conservation Commission (TNRCC or commission) as guides in the exercise of discretion, where

discretion is vested. They shall not be construed as a limitation or restriction on the exercise of discretion, where it exists, nor shall they be construed to deprive the commission of the exercise of any power, duties, and jurisdiction conferred by law, or to limit or restrict the amount and character of data or information which may be required for the proper administration of the law.

Adopted March 30, 1979

Effective May 6, 1979

§101.14. Sampling Procedures and Terminology.

Where not otherwise specified in the rules, regulations, determinations, and orders of the Texas Natural Resource Conservation Commission, the procedures used for sampling air and measuring air contaminants, and the methods of expressing the findings shall be those commonly accepted and used in the field of air pollution control.

Adopted March 30, 1979

Effective May 6, 1979

§101.18. Remedies Cumulative.

The administrative and judicial procedures available to the Texas Natural Resource Conservation Commission (TNRCC or commission) to prevent, correct, or remedy air pollution conditions or violations are cumulative. Within the limits of the authority set forth in the Act and these rules, the commission or the executive director may act under any one or more of these procedures, as applicable to the facts of a particular air pollution condition or claimed violation.

Adopted March 30, 1979

Effective May 6, 1979

§101.19. Severability.

If any provisions of any of the regulations of the Texas Natural Resource Conservation Commission (TNRCC or commission) or the application of that provision to any person, situation, or circumstance is for any reason adjudged invalid, the adjudication does not affect any other provision of the regulations or the application of the adjudicated provision to any other person, situation, or circumstance. The commission declares that it would have adopted the valid portions and applications of the regulations without the invalid part and to this end the provisions of the regulations are declared to be severable.

Adopted March 30, 1979

Effective May 6, 1979

§101.20. Compliance with Environmental Protection Agency Standards.

Any person owning or operating a source of air contaminants shall comply with the following requirements:

(1) any applicable new source performance standards promulgated by the United States Environmental Protection Agency (EPA) pursuant to the Federal Clean Air Act, §111, as amended;

(2) any applicable emissions standards for hazardous air pollutants promulgated by the EPA pursuant to the FCAA, §112, as amended; and

(3) the conditions of any permit issued by the EPA pursuant to 40 Code of Federal Regulations §52.21, concerning the Prevention of Significant Deterioration of Air Quality.

Adopted July 26, 1985

Effective August 23, 1985

§101.21. The National Primary and Secondary Ambient Air Quality Standards.

The National Primary and Secondary Ambient Air Quality Standards, as promulgated pursuant to Section 109 of the Federal Clean Air Act, as amended, will be enforced throughout all parts of Texas.

Adopted March 30, 1979

Effective May 6, 1979

§101.23. Alternate Emission Reduction ("Bubble") Policy.

An owner or operator of any facility that is affected by any control requirement of Texas Natural Resource Conservation Commission (TNRCC) Regulations I, II, III, V, VII, and IX adopted on or after March 30, 1979, may, prior to compliance with such requirement, request the executive director to approve control of emissions from an alternate facility or from alternate facilities located on the affected property and owned or operated by or under the control of the owner or operator of the affected facility in lieu of compliance with the requirement as prescribed in the regulation, provided the alternate proposed controls are not required by any TNRCC rule, regulation, permit condition, board order, or court order. The executive director shall approve control of emissions from alternate facilities if the applicant demonstrates that the alternate controls will yield, by the date specified in the rule, emission reductions that are substantially equivalent to the emissions reductions which would otherwise be required in terms of their quantity, character, air quality impacts including health and welfare effects, and area affected. Facilities which receive the executive director's approval of an alternate emissions control plan will be deemed to have complied with the otherwise applicable TNRCC rule. However, the executive director may, after notice and opportunity for public hearing, revoke the credit or authority for alternate

controls if he determines that any of the prerequisites for approval of the alternate controls are no longer met or if further emission reductions are needed to meet the intent of the Texas Clean Air Act.

Adopted February 13, 1981

Effective March 31, 1981

§101.24. Inspection Fees.

(a) Applicability. The owner or operator of each account to which this rule applies shall remit to the commission an inspection fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year, begins on the September 1 prior to that calendar year. An account subject to both an inspection fee and emissions fee, under §101.27 of this title (relating to Emissions Fees), is required to pay only the greater of the two fees. Each account will be assessed a separate inspection fee. The inspection fee shall apply to each account which contains one or more of the types of plants, facilities, and/or processes described in subsection (f) of this section, including permitted and non-permitted facilities. References for the industrial categories used are provided in the *Standard Industrial Classification (SIC) Manual* (Executive Office of the President, Office of Management and Budget, 1987). If more than one SIC category can apply to an account, the fee assessed shall be the highest fee listed for the applicable classifications in the fee schedule. Provisions of this section apply to all accounts, including accounts which have not been assigned specific commission identification numbers. The owner or operator of an account subject to an inspection fee is responsible for contacting the commission to obtain an identification number. The commission will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full inspection fee is due. If the commission is notified in writing that the account is not and will not be in operation during that fiscal year, a fee will not be due.

(b) Self report/billed information. Emissions/inspection fee information packets will be mailed to each affected account prior to the fiscal year for which the fee is due. The completed emissions/inspection fee basis form shall be returned to the address specified on the emissions/inspection fees basis form within 60 days of the date the agency sends the emissions/inspection fee information packet. The completed emissions/inspection fee basis form shall include, at least, the company name, mailing address, site name, all Texas Commission on Environmental Quality (TCEQ) identification numbers, the applicable SIC category, any additional information necessary to assess the fee, and the name and telephone number of the person to contact in case questions arise regarding the emissions/inspection fee basis form. If more than one SIC category can apply to an account, the category reported shall be that one with the highest associated fee. Subsequent to a review of the information submitted, a billing statement of the fee assessment will be sent to the account during the fiscal year in which the fee is due.

(c) Requesting fee information packet.

(1) For fiscal year 2003, if an account which is subject to the inspection fee in this section has not received the information packet described in subsection (b) of this section by November 1, 2002, the owner or operator of the account shall notify the commission by December 1, 2002. For accounts which begin operation after November 1, the owner or operator of the account shall request an information packet within 30 days of commencing operation.

(2) For subsequent fiscal years, if an account which is subject to the inspection fee in this section has not received the information packet described in subsection (b) of this section by June 1 prior to the fiscal year in which the fee is due, the owner or operator of the account shall notify the commission by July 1 prior to the fiscal year in which the fee is due. For accounts which begin operation after September 1, the owner or operator of the account shall request an information packet within 30 days of commencing operation.

(d) Payment. Fees must be remitted by check, certified check, electronic funds transfer, or money order made payable to the TCEQ and sent to the TCEQ address printed on the billing statement.

(e) Due date. Payment of the inspection fee is due within 30 days of the date the agency sends a statement of the assessment to the facility owner or operator. If an account commences or resumes operation during the fiscal year in which the fee is assessed, the full inspection fee will be due prior to commencement or resumption of operations.

(f) Inspection fee schedule. The inspection fee schedule is as follows. For fiscal years after 2003, the fiscal year 2003 fee schedule shall apply as adjusted for inflation using the Consumer Price Index (CPI). The CPI adjustment factor shall be the average of the CPI for the 12 months preceding the fiscal year for which the fee is assessed as compared to the same calculation of the CPI for the previous fiscal year (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100).

SIC CODE - DESCRIPTION

FEE

	Fiscal Year	Fiscal Year
	1992 - 2002	2003

1311, 1321 - Natural Gas Processing

Gas processing and treatment operations with a rated inlet capacity or highest average daily inlet volume for one of the last three years of at least 5 million standard cubic feet per day (scf/day), but less than 25 million scf/day

1311 - Natural Gas Sweetening	\$ 1,250.00	\$ 1,675.00
1321 - Natural Gas Liquids Processing	\$ 2,875.00	\$ 3,850.00

Gas processing and treatment operations with a rated inlet capacity or highest average daily inlet volume for one of the last three years of at least 25 million scf/day

1311 - Natural Gas Sweetening	\$ 2,500.00	\$ 3,345.00
1321 - Natural Gas Liquids Processing	\$ 5,750.00	\$ 7,695.00
Compression with total horsepower (HP) of at least 10,000 HP from fossil fuel-fired engines	\$ 2,875.00	\$ 3,850.00

1459 - Fuller's Earth Processing

Material processing capacity of at least 25 tons per hour (tph)	\$ 5,625.00	\$ 7,530.00
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1479 - Sulfur Mining

Material processing capacity of at least 1 ton per day (tpd), but less than 10 tpd	\$ 6,000.00	\$ 8,030.00
Material processing capacity of at least 10 tpd	\$ 12,000.00	\$ 16,060.00

2061 - Cane Sugar Manufacturing

Processing capacity of at least 1,000 pounds per hour (lbs/hr)	\$ 6,875.00	\$ 9,200.00
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2074 - Cottonseed Oil Mills

Processing capacity equal to or greater than 100 tpd, but less than 425 tpd	\$ 1,250.00	\$ 1,674.00
Processing capacity equal to or greater than 425 tpd, but less than 850 tpd	\$ 1,875.00	\$ 2,510.00

Processing capacity equal to or greater than 850 tpd	\$ 4,000.00	\$ 5,355.00
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2082 - Malt Beverages

Capacity of at least 1 million barrels per year	\$ 3,375.00	\$ 4,520.00
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2435, 2436, 2493 - Veneer, Plywood, Particle board and Fiberboard

Capacity equal to or greater than 50 million square feet per year (ft ² /year), but less than 125 million ft ² /year 3/8" basis	\$ 2,185.00	\$ 2,925.00
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Capacity equal to or greater than 125 million ft ² /year, but less than 350 million ft ² /year 3/8" basis	\$ 4,375.00	\$ 5,855.00
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Capacity equal to or greater than 350 million ft ² /year 3/8" basis	\$ 8,750.00	\$ 11,710.00
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2611, 2621 - Pulp and Paper Mills

Capacity of at least 100 lbs/hr , but less than 1,000 lbs/hr	\$ 7,875.00	\$ 10,540.00
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Capacity of at least 1,000 lbs/hr	\$ 15,750.00	\$ 21,075.00
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2812 - Alkalies and Chlorine

Capacity of at least 1 million pounds per year (lbs/yr), but less than 10 million lbs/yr	\$ 2,625.00	\$ 3,515.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 5,250.00	\$ 7,025.00
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Capacity of at least 100 million lbs/yr	\$ 10,500.00	\$ 14,050.00
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2813 - Industrial Gases

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr, and heat input capacity on-site of at least 250 million British thermal units (Btu) per hour	\$ 1,875.00	\$ 2,510.00
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Capacity of at least 10 million lbs/yr, but less	\$ 3,750.00	\$ 5,020.00
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than 100 million lbs/yr, and heat input capacity on-site of at least 250 million Btu per hour

Capacity of at least 100 million lbs/yr, and heat input capacity on-site of at least 250 million Btu per hour	\$ 7,500.00	\$ 10,035.00
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2819 - Inorganic Chemicals

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 3,750.00	\$ 5,020.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 7,500.00	\$ 10,035.00
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Capacity of at least 100 million lbs/yr	\$ 15,000.00	\$ 20,070.00
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2821 - Plastics, Minerals and Resins

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 3,500.00	\$ 4,685.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 7,000.00	\$ 9,370.00
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Capacity of at least 100 million lbs/yr	\$ 14,000.00	\$ 18,735.00
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2822 - Synthetic Rubber

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 3,375.00	\$ 4,520.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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Capacity of at least 100 million lbs/yr	\$ 13,500.00	\$ 18,065.00
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2834 - Pharmaceutical Preparations

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 1,685.00	\$ 2,255.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 3,375.00	\$ 4,520.00
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Capacity of at least 100 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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2841 - Soap and Other Detergents

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 750.00	\$ 1,005.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 1,500.00	\$ 2,010.00
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Capacity of at least 100 million lbs/yr	\$ 3,000.00	\$ 4,015.00
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2861 - Gum and Wood Chemicals

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 2,310.00	\$ 3,095.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 4,625.00	\$ 6,190.00
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Capacity of at least 100 million lbs/yr	\$ 9,250.00	\$ 12,380.00
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2865 - Cyclic Crudes and Intermediates

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 3,625.00	\$ 4,855.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 7,250.00	\$ 9,705.00
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Capacity of at least 100 million lbs/yr	\$ 14,500.00	\$ 19,405.00
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2869 - Organic Chemicals

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 3,750.00	\$ 5,020.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 7,500.00	\$ 10,035.00
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Capacity of at least 100 million lbs/yr	\$ 15,000.00	\$ 20,070.00
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2873 - Nitrogenous Fertilizers

Capacity of at least 1 million lbs/yr, but less	\$ 1,560.00	\$ 2,090.00
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than 10 million lbs/yr

Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 3,125.00	\$ 4,185.00
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Capacity of at least 100 million lbs/yr	\$ 6,250.00	\$ 8,365.00
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2874 - Phosphatic Fertilizers

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 2,560.00	\$ 3,430.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 5,125.00	\$ 6,860.00
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Capacity of at least 100 million lbs/yr	\$ 10,250.00	\$ 13,715.00
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2879 - Agricultural Chemicals

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 2,310.00	\$ 3,095.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 4,625.00	\$ 6,190.00
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Capacity of at least 100 million lbs/yr	\$ 9,250.00	\$ 12,380.00
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2895 - Carbon Black

Capacity of at least 6 million lbs/yr, but less than 50 million lbs/yr	\$ 7,750.00	\$ 10,370.00
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Capacity of at least 50 million lbs/yr	\$ 15,500.00	\$ 20,740.00
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2899 - Chemical Preparations

Capacity of at least 1 million lbs/yr, but less than 10 million lbs/yr	\$ 1,000.00	\$ 1,340.00
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Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 2,000.00	\$ 2,680.00
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Capacity of at least 100 million lbs/yr	\$ 4,000.00	\$ 5,355.00
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2911 - Petroleum Refining

Capacity of at least 10,000 barrels per day (bbl/day), but less than 100,000 bbl/day	\$ 9,375.00	\$ 12,545.00
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Capacity of at least 100,000 bbl/day	\$ 18,750.00	\$ 25,090.00
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2951 - Asphalt Paving Mixtures	\$ 875.00	\$ 1,175.00
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2952 - Asphalt Felts and Coatings

Capacity of at least 1 million lbs/yr, but less than 50 million lbs/yr	\$ 4,250.00	\$ 5,690.00
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Capacity of at least 50 million lbs/yr	\$ 8,500.00	\$ 11,375.00
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2992 - Waste Oil Re-Refining

Capacity of at least 200,000 gallons per year	\$ 3,750.00	\$ 5,020.00
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2999 - Petroleum and Coal Products

Capacity of at least 1 million lbs/yr, but less than 50 million lbs/yr	\$ 5,125.00	\$ 6,860.00
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Capacity of at least 50 million lbs/yr	\$ 10,250.00	\$ 13,715.00
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3011 - Tires and Inner Tubes

Capacity of at least 5 million lbs/yr, but less than 10 million lbs/yr	\$ 7,125.00	\$ 9,535.00
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Capacity of at least 10 million lbs/yr	\$ 14,250.00	\$ 19,070.00
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3211 - Flat Glass

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 5,875.00	\$ 7,865.00
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Capacity of at least 200 million lbs/yr	\$ 11,750.00	\$ 15,725.00
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3221 - Glass Containers

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 3,375.00	\$ 4,520.00
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Capacity of at least 200 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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3229 - Pressed and Blown Glass

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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Capacity of at least 200 million lbs/yr	\$ 13,500.00	\$ 18,065.00
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3241 - Cement, Hydraulic

Capacity of at least 10 million lbs/yr, but less than 500 million lbs/yr	\$ 7,250.00	\$ 9,705.00
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Capacity of at least 500 million lbs/yr	\$ 14,500.00	\$ 19,405.00
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3251 - Brick and Structural Clay Tile

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 2,375.00	\$ 3,180.00
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Capacity of at least 200 million lbs/yr	\$ 4,750.00	\$ 6,360.00
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3259 - Structural Clay Products

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 6,250.00	\$ 8,365.00
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Capacity of at least 200 million lbs/yr	\$ 12,500.00	\$ 16,725.00
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3261 - Vitreous Plumbing Fixtures

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 3,375.00	\$ 4,520.00
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Capacity of at least 200 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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3273 - Ready-Mixed Concrete

Capacity to produce for delivery at least 10 cubic yards (yd ³) per hour (20,000 yd ³ per	\$ 625.00	\$ 840.00
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3274 - Lime

Capacity of at least 1 million lbs/yr, but less than 50 million lbs/yr	\$ 7,375.00	\$ 9,870.00
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Capacity of at least 50 million lbs/yr	\$ 14,750.00	\$ 19,740.00
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3275 - Gypsum Products

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 3,875.00	\$ 5,185.00
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Capacity of at least 200 million lbs/yr	\$ 7,750.00	\$ 10,370.00
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3292 - Asbestos Products

Capacity of at least 10 million lbs/yr, but less than 200 million lbs/yr	\$ 1,250.00	\$ 1,675.00
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Capacity of at least 200 million lbs/yr	\$ 2,500.00	\$ 3,345.00
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3295 - Minerals, Ground or Treated

Capacity of at least 1 million lbs/yr, but less than 50 million lbs/yr	\$ 3,375.00	\$ 4,520.00
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Capacity of at least 50 million lbs/yr	\$ 6,750.00	\$ 9,035.00
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3296 - Mineral Wool

Capacity of at least 10,000 lbs/yr, but less than 1 million lbs/yr	\$ 7,375.00	\$ 9,870.00
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Capacity of at least 1 million lbs/yr	\$ 14,750.00	\$ 19,740.00
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3312 - Blast Furnaces and Steel Mills

Capacity of at least 50 million lbs/yr, but less than 1 billion lbs/yr	\$ 7,000.00	\$ 9,370.00
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Capacity of at least 1 billion lbs/yr	\$ 14,000.00	\$ 18,735.00
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3321 - Gray Iron Foundries

Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 3,125.00	\$ 4,185.00
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Capacity of at least 100 million lbs/yr	\$ 6,250.00	\$ 8,365.00
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3331 - Primary Copper Smelting and Refining

Smelting capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 9,375.00	\$ 12,545.00
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Smelting capacity of at least 100 million lbs/yr	\$ 18,750.00	\$ 25,090.00
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Refining capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 5,250.00	\$ 7,025.00
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Refining capacity of at least 100 million lbs/yr	\$ 10,500.00	\$ 14,050.00
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3334 - Primary Aluminum

Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 6,875.00	\$ 9,200.00
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Capacity of at least 100 million lbs/yr	\$ 13,750.00	\$ 18,400.00
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3339 - Primary Nonferrous Metals

Capacity of at least 10 million lbs/yr, but less than 100 million lbs/yr	\$ 3,625.00	\$ 4,855.00
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Capacity of at least 100 million lbs/yr	\$ 7,250.00	\$ 9,705.00
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3341 - Secondary Nonferrous Metals

Capacity of at least 1 million lbs/yr, but less than 20 million lbs/yr	\$ 6,625.00	\$ 8,865.00
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Capacity of at least 20 million lbs/yr	\$ 13,250.00	\$ 17,730.00
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3354 - Aluminum Extruded Products

Capacity of at least 500,000 lbs/yr, but less than 10 million lbs/yr	\$ 2,250.00	\$ 3,015.00
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Capacity of at least 10 million lbs/yr	\$ 4,500.00	\$ 6,025.00
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3355 - Aluminum Rolling and Drawing

Capacity of at least 500,000 lbs/yr, but less	\$ 4,750.00	\$ 6,360.00
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than 10 million lbs/yr

Capacity of at least 10 million lbs/yr	\$ 9,500.00	\$ 12,715.00
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3411 - Metal Cans

Capacity of at least 10 million cans per year, but less than 50 million cans per year	\$ 5,875.00	\$ 7,865.00
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Capacity of at least 50 million cans per year	\$ 11,750.00	\$ 15,725.00
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3585 - Refrigeration and Heating Equipment

Accounts with more than 500 employees	\$ 6,875.00	\$ 9,200.00
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3624 - Carbon and Graphite Products

Accounts with more than 1,000 employees	\$ 5,125.00	\$ 6,860.00
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3661 - Telephone and Telegraph Apparatus

Accounts with more than 1,000 employees	\$ 4,250.00	\$ 5,690.00
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3663, 3669 - Communications Equipment

Accounts with more than 1,000 employees	\$ 5,625.00	\$ 7,530.00
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3674 - Semiconductors and Related Devices

Accounts with more than 1,000 employees	\$ 5,125.00	\$ 6,860.00
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3711 - Motor Vehicles

Capacity of at least 1,000 vehicles per year, but less than 10,000 vehicles per year	\$ 5,250.00	\$ 7,025.00
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Capacity of at least 10,000 vehicles per year	\$ 10,500.00	\$ 14,050.00
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3721 - Aircraft Manufacturing Plants

Accounts with at least 200 but less than 1,000 employees	\$ 1,875.00	\$ 2,510.00
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Accounts with at least 1,000 but less than 5,000 employees	\$ 5,625.00	\$ 7,530.00
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Accounts with at least 5,000 employees	\$ 11,250.00	\$ 15,055.00
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3743 - Railroad Equipment

Accounts with more than 25 employees	\$ 5,875.00	\$ 7,865.00
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4226 - Storage and Terminal Facilities for Petroleum and Chemical Products

Capacity of at least 50,000 gallons tankage and 20,000 gallons per day (gpd) throughput	\$ 7,250.00	\$ 9,705.00
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4491 - Marine Cargo Handling

Capacity of at least 25 tpd of product	\$ 4,500.00	\$ 6,025.00
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4789 - Transportation Services

Railcar repair, cleaning or painting accounts with at least 25 employees	\$ 2,875.00	\$ 3,850.00
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Truck cleaning and painting accounts with at least 25 employees	\$ 4,375.00	\$ 5,855.00
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Independent pipeline terminals with throughput of at least 20,000 gallons per day, but less than 200,000 gpd for all petroleum liquids except crude oil	\$ 3,625.00	\$ 4,855.00
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Independent pipeline terminals with throughput of at least 200,000 gpd for all petroleum liquids except crude oil	\$ 7,250.00	\$ 9,705.00
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4911 - Electric Services

Capacity of at least 25 megawatts, but less than 100 megawatts (includes cogeneration units)	\$ 5,000.00	\$ 6,690.00
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Capacity of at least 100 megawatts	\$ 10,000.00	\$ 13,380.00
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4922, 4923, 4924, 4925 - Natural Gas Transmission/Distribution

Capacity of at least 10,000 horsepower from	\$ 2,875.00	\$ 3,850.00
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fossil fuel-fired engines

4952 - Sludge Drying and Incineration

Capacity of at least 5 tons per hour drying or 500 pounds per hour incineration (wet basis)	\$ 3,750.00	\$ 5,020.00
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4961 - Steam Supply

Capacity of at least 250 million Btu per hour	\$ 7,500.00	\$ 10,035.00
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5093 - Scrap Metal Reclamation

Capacity of at least 1 ton per day metal reclamation by incineration or melting	\$ 3,750.00	\$ 5,020.00
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Metal reclamation by shredding	\$ 625.00	\$ 840.00
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5169 - Distribution of Chemicals and Allied Products

Throughput of at least 20,000 gpd	\$ 3,375.00	\$ 4,520.00
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5171 - Petroleum and Petroleum Product Bulk Stations and Terminals

Throughput of at least 20,000 gpd, but less than 200,000 gpd for all petroleum liquids except crude oil. Crude oil facilities with tankage of at least 5,000 but less than 10,000 barrel capacity and no floating roof for control of emissions, or tankage of at least 100,000 but less than 200,000 barrel capacity with floating roof controls	\$ 3,625.00	\$ 4,855.00
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Throughput of at least 200,000 gpd for all petroleum liquids except crude oil. Crude oil facilities with tankage of at least 10,000 barrel capacity with no floating roof for control of emissions, or tankage of at least 200,000 barrel capacity with floating roof controls	\$ 7,250.00	\$ 9,705.00
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9711 - Defense Plants and Military Bases

Defense plants with at least 100 employees, or military bases with more than 1,000 employees	\$ 9,875.00	\$ 13,215.00
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(g) Nonpayment of fees. Each inspection fee payment must be paid at the time and in the manner and amount provided by this subchapter. Failure to remit the full inspection fee by the due date shall result in enforcement action under Texas Water Code, §7.178. The provisions of this section, as first adopted and as amended thereafter, are and shall remain in effect for purposes of any unpaid fee assessments, and the fees assessed in accordance with such provisions as adopted or as amended remain a continuing obligation.

(h) Late payments. The agency shall impose interest and penalties on owners or operators of accounts who fail to make payment of the inspection fees when due in accordance with Chapter 12 of this title (relating to Payment of Fees).

Adopted September 25, 2002

Effective October 20, 2002

§101.26. Surcharge on Fuel Oil in Specified Boilers.

(a) Applicability. The owner or operator of an industrial or utility boiler as defined in §101.1 of this title (relating to Definitions), with a heat input capacity of greater than 10.0 million British Thermal Unit (MBtu) per hour capable of using natural gas shall remit to the Texas Natural Resource Conservation Commission (TNRCC) a clean fuel incentive surcharge of \$0.20 per MBtu on fuel oil used on or between April 15 and October 15 of each year. Provisions of this section apply only to industrial and utility boilers located in consolidated metropolitan statistical areas or metropolitan statistical areas with a population of 350,000 or more which have not met the national ambient air quality standard for ozone.

(b) Exemptions. The owner or operator of an industrial or utility boiler affected by subsection (a) of this section is exempt from the surcharge in the following circumstances:

(1) burning of the following oils as defined for purposes of energy recovery or disposal, provided that such burning activities are approved or permitted by the TNRCC and/or the United States Environmental Protection Agency:

(A) Used oil - Any oil that has been refined from crude oil, has been used, and, as a result of such use, is contaminated by physical or chemical impurities;

(B) Hazardous waste-derived oil - Any oil that has been produced by processing, blending, or other treatment using hazardous wastes, as defined in §101.1 of this title (relating to Definitions).

(C) Waste oil - Any by-product or co-product oil resulting from crude oil refining or petrochemical production, which is used for energy recovery on-site, provided such use does not exceed 5% of the manufacturing complex's fuel

consumption, and any by-product oil resulting from crude oil refining or petrochemical production, which is used for energy recovery on-site, if the material has no commercial value and would otherwise be Class I industrial solid waste or hazardous waste. For purposes of this definition, the term "on-site" includes facilities which are adjacent, contiguous, or physically interconnected;

(2) fuel oil use during documented periods of full or partial natural gas curtailment or during documented periods when insufficient natural gas is available to satisfy contractual obligations, or in the event of catastrophic events as defined in the Texas Clean Air Act (TCAA), §382.063(j);

(3) fuel oil use in equipment testing or personnel training if limited to an aggregate of the equivalent of 48 hours full-load operation between April 15 through October 15; or

(4) fuel oil use under a fixed-price contract with a public works agency entered into prior to August 28, 1989.

(c) Recordkeeping. The owner or operator of an industrial or utility boiler as defined in §101.1 of this title (relating to Definitions), with a heat input capacity of greater than 10.0 MBtu per hour capable of using natural gas shall maintain records of fuel usage, including amounts and types of fuels used during April 15 to October 15 of each year. Provisions of this section apply only to industrial and utility boilers located in consolidated metropolitan statistical areas, or metropolitan statistical areas with a population of 350,000 or more which have not met the national ambient air quality standard for ozone. The fuel usage record should include documentation of any fuel oil burned as allowed by subsection (b) of this section. The fuel usage record for each year shall be maintained for two years and made available to authorized representatives of the TNRCC and/or local air pollution control agencies upon request.

(d) Payment. Surcharges shall be remitted in the form of a check or money order made payable to the Texas Natural Resource Conservation Commission annually by December 31, beginning in 1990. A fuel usage report documenting the amount and types of fuel used during April 15 through October 15 for each boiler affected by subsection (a) of this section shall accompany any surcharge remitted. The fuel usage report shall also include the company name, mailing address, property address, TNRCC account number, and the name and telephone number of the person to contact in case questions arise regarding the surcharge payment.

(e) Nonpayment of surcharge. Failure to remit the fuel surcharge payment by December 31 shall result in action under the TCAA, §382.088 or §382.082.

§101.27. Emissions Fees.

(a) Applicability. The owner or operator of an account that is required to obtain a federal operating permit as described in Chapter 122 of this title (relating to Federal Operating Permits Program) shall remit to the commission an emissions fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year, begins on the September 1 prior to that calendar year. Each account will be assessed a separate emissions fee. An account subject to both an emissions fee and an inspection fee, under §101.24 of this title (relating to Inspection Fees), is required to pay only the greater of the two fees. The commission will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year that a fee is being assessed, a full emissions fee is due. If the commission is notified in writing that the account is not and will not be in operation during that fiscal year, a fee will not be due.

(b) Self reported/billed information. Emissions/inspection fees information packets will be mailed to each account owner or operator prior to the fiscal year that a fee is due. The completed emissions/inspection fees basis form must be returned to the address specified on the emissions/inspection fees basis form within 60 calendar days of the date the agency sends the emissions fees information packet. The completed emissions/inspection fees basis form must include, at least, the company name, mailing address, site name, all commission identification numbers, applicable Standard Industrial Classification (SIC) category, the emissions of all regulated air pollutants at the account for the reporting period, and the name and telephone number of the person to contact in case questions arise regarding the fee payment. If more than one SIC category can apply to an account, the category reported must be the one with the highest associated fee as listed in §101.24 of this title. Subsequent to a review of the information submitted, a billing statement of the fee assessment will be sent to the account owner or operator.

(c) Requesting fee information packet. If an account owner or operator has not received the fee information packet described in subsection (b) of this section by June 1 prior to the fiscal year that a fee is due, the owner or operator of the account shall notify the commission by July 1 prior to the fiscal year that a fee is due. For accounts that begin or resume operation after September 1, the owner or operator of the account shall request an information packet within 30 calendar days prior to commencing operation.

(d) Payment. Fees must be remitted by check, certified check, electronic funds transfer, or money order and sent to the address printed on the billing statement.

(e) Due date. Payment of the emissions fee is due within 30 calendar days of the date the agency sends a statement of the assessment to the account owner or operator.

(f) Basis for fees.

(1) The fee must be based on allowable levels or actual emissions at the account. For purposes of this section, allowable levels are those limits as specified in an enforceable document such as a permit, certified registration of emissions, or Commission Order that are in effect during the fiscal year that a fee is due and actual emissions are the emissions of all regulated pollutants emitted from the account during the last full calendar year preceding the beginning of the fiscal year that a fee is due. Under no circumstances may the fee basis be less than the actual emissions at the account. The fee applies to the regulated pollutant emissions at the account, including those emissions from point and fugitive sources. The fee basis must include emissions during all operational conditions, including all emissions from emissions events and maintenance, startup, and shutdown activities as described in Subchapter F of this chapter (relating to Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities). Although certain fugitive emissions are excluded for applicability determination purposes under subsection (a) of this section, all fugitive emissions must be considered for fee calculations after applicability of the fee has been established. A maximum of 4,000 tons of each regulated pollutant will be used for fee calculations. The fee for each fiscal year is set at the following rates.

Figure: 30 TAC §101.27(f)(1)

Emissions Fee Schedule		
Fiscal Year	Rate Per Ton	Minimum Fee
1992	\$3	
1993	\$5	\$25
1994	\$25	\$25
1995 - 2002	\$26	\$26
For Fiscal Year 2003 through Fiscal Year 2011, the rate per ton must be calculated using the following formula. The minimum fee must be equal to the rate per ton. Rate per ton = $\$25.00 \times (1 - CO) \times (CPI/122.15)$		

For Fiscal Year ar 2012 and subsequent years, the rate per ton must be calculated using the following formula. The minimum fee must be equal to the rate per ton.

$$\text{Rate per ton} = \$\text{AdjBaseRate} \times (\text{CPI} / 122.15)$$

Where:

AdjBaseRate = an adjustable base rate, equal to \$25 for Fiscal Year 2012, and adjusted annually, as necessary, thereafter between \$25 and \$45.

CO = carbon monoxide fraction of the fee basis, for all emissions fee payers for the previous fiscal year;

CPI = average of the consumer price index for the 12 months preceding the fiscal year that a fee is being assessed (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100); and

122.15 = average consumer price index for Fiscal Year 1989 (as published by the United States Bureau of Labor Statistics, CPI - All Urban Consumers, Not Seasonally Adjusted, base period 1982 - 84 = 100).

(2) The emissions tonnage for the account for fee calculation purposes will be the sum of those allowable levels or actual emissions for individual emission points or process units at the account rounded up to the nearest whole number, as follows.

(A) Where there is an enforceable document such as a permit, certified registration of emissions, or a Commission Order establishing allowable levels for individual emission points or process units, the actual emissions from all individual emission points and process units at the account may be used to calculate the fee basis only if a complete and verifiable emissions inventory for the account is submitted as described in §101.10 of this title (relating to Emissions Inventory Requirements). Where a complete and verifiable emissions inventory is not submitted, the executive director may direct that the fee be based on all of the allowable levels for the account.

(B) Where there is not an enforceable document such as a permit, certified registration of emissions, or a Commission Order establishing allowable levels for individual emissions points or process units; actual emissions from all individual emission points and process units must be used to calculate the fee basis. Actual production, throughput, or measurement records must be submitted along with complete documentation of calculation methods. Thorough

justification is required for all assumptions made and emission factors used in such calculations.

(3) For purposes of this section, the term "regulated pollutant" includes any volatile organic compound, any pollutant subject to Federal Clean Air Act (FCAA), §111, any pollutant listed as a hazardous air pollutant under FCAA, §112, each pollutant that a national primary ambient air quality standard has been promulgated (including carbon monoxide), and any other air pollutant subject to requirements under commission rules, regulations, permits, orders of the commission, or court orders. For purposes of this section, the term "regulated pollutant" does not include individual gases listed in the definition of greenhouse gases.

(g) Nonpayment of fees. Each emissions fee payment must be paid at the time and in the manner and amount provided by this subchapter. Failure to remit the full emissions fee by the due date must result in enforcement action under Texas Water Code, §7.178. The provisions of this section, as first adopted and amended thereafter, are and must remain in effect for purposes of any unpaid fee assessments, and the fees assessed in accordance with such provisions as adopted or as amended remain a continuing obligation.

(h) Late payments. The agency shall impose interest and penalties on owners or operators of accounts who fail to make payment of emissions fees when due in accordance with Chapter 12 of this title (relating to Payment of Fees).

Adopted March 26, 2014

Effective April 17, 2014

§101.28. Stringency Determination for Federal Operating Permits.

(a) Instead of the requirements imposed by an applicable requirement or a state only requirement as defined in §122.10 of this title (relating to General Definitions), a permit holder of a federal operating permit may comply with more stringent or equivalent requirements provided the requirements:

(1) are established by §122.148(c)(1)(B) of this title (relating to Permit Shield) for streamlining multiple, duplicative, redundant, and/or contradicting applicable requirements or state only requirements; and

(2) are adequate to assure compliance to the same extent as the applicable requirements or state-only requirements being superseded by a more stringent or equivalent requirement.

(b) A determination under subsection (a) of this section may include a method change (i.e., either a change to a commission monitoring or testing

procedure which was previously approved by EPA or an alternative to an EPA-approved monitoring or test method) if approved by EPA.

(c) The more stringent, equivalent, or alternative requirement established by the executive director under this section is approved for the emission unit by EPA if:

(1) it is a term or condition of a federal operating permit; and

(2) EPA has not objected to the permit as required by §122.350 of this title (relating to EPA Review).

Adopted December 1, 1999

Effective December 23, 1999