

**SUBCHAPTER D: PERMIT RENEWALS**

**§§116.310 - 116.315**

**Effective May 29, 2008**

**§116.310. Notification of Permit Holder.**

The executive director shall provide written notice to the permit holder that the permit is scheduled for review. Such notice must be provided by certified or registered United States mail no less than 180 days prior to the expiration of the permit. The notice must specify the procedure for filing an application for review and the information to be included in the application. Under Texas Civil Statutes, Article 9027, the commission shall exempt a permit holder from any increased fee or other penalty for failure to renew the permit if the individual establishes, to the satisfaction of the commission, that the failure to renew in a timely manner occurred because the individual was on active duty in the United States Armed Forces serving outside the State of Texas.

Adopted June 17, 1998

Effective July 8, 1998

**§116.311. Permit Renewal Application.**

(a) In order to be granted a permit renewal, the permit holder shall submit information in support of the application which demonstrates that:

(1) dockside vessel emissions associated with the facility will comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public and minimization of emissions to the extent possible, consistent with good air pollution practices.

(2) the facility is being operated in accordance with all requirements and conditions of the existing permit, including representations in the application for permit to construct and subsequent amendments, and any previously granted renewal, unless otherwise authorized for a qualified facility;

(3) the facility meets the requirements of any applicable New Source Performance Standards as listed under Title 40 Code of Federal Regulations (CFR) Part 60, promulgated by the EPA under the authority of the FCAA, §111, as amended;

(4) the facility meets the requirements of any applicable emission standard for hazardous air pollutants as listed under Title 40 CFR Part 61, promulgated by EPA under the authority of the FCAA, §112, as amended; and

(5) the facility meets the requirements of any applicable maximum achievable control technology standard as listed under 40 CFR Part 63, promulgated by the EPA under FCAA, §112 or as listed under Chapter 113, Subchapter C of this title (relating to National Emissions Standards for Hazardous Air Pollutants for Source Categories (FCAA §112, 40 CFR 63)).

(6) the facility meets the requirements of Subchapter C of this chapter (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)).

(b) In addition to the requirements in subsection (a) of this section, if the commission determines it necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements, then:

(1) the applicant may be required to submit additional information regarding the emissions from the facility and their impacts on the surrounding area; and

(2) the commission shall impose as a condition for renewal only those requirements the executive director determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area.

(c) A compliance history review must be conducted in accordance with Chapter 60 of this title (relating to Compliance History).

Adopted August 21, 2002

Effective September 12, 2002

**§116.312. Public Notification and Comment Procedures.**

The executive director shall mail a written notice to the permit holder within 30 days after receipt of a complete application. The notice will confirm receipt of the application and shall require the applicant to provide public notice of the application for permit renewal in accordance with Chapter 39 of this title (relating to Public Notice).

Adopted September 2, 1999

Effective September 23, 1999

**§116.313. Renewal Application Fees.**

(a) The fee for renewal is based on the total annual allowable emissions from the permitted facility to be renewed, according to the following table.

**RENEWAL FEE TABLE\***

<b>X = TOTAL ALLOWABLE (TONS/YEAR)</b>	<b>BASE FEE</b>	<b>INCREMENTAL FEE</b>
X ≤ 5	\$600	-
5 < X ≤ 24	\$600	\$35/ton
24 < X ≤ 99	\$1,265	\$28/ton
99 < X ≤ 651	\$3,365	\$12/ton
X > 651	\$10,000	--

Minimum fee: \$600  
Maximum fee: \$10,000

\* To calculate the fee, multiply the number of tons in excess of the lower limit of the appropriate category by the incremental fee, then add this amount to the base fee. For example, if total emissions of all air contaminants are 50 tons per year, the total fee would be \$1,993 (base fee of \$1,265, plus incremental fee of \$28 x 26 tons or \$728).

(b) Fees are due and payable at the time the renewal application is filed. No fee will be accepted before the permit holder has been notified by the commission that the permit is scheduled for review. All permit review fees shall be remitted by check, certified check, electronic funds transfer, or money order payable to the Texas Commission on Environmental Quality (TCEQ) and mailed to the TCEQ, P.O. Box 13088, MC 214, Austin, Texas 78711-3088. Required fees must be received before the agency will consider an application to be complete.

Adopted August 20, 2003

Effective September 14, 2003

**§116.314. Review Schedule.**

(a) Renewal of permit. The executive director shall renew a permit and notify the permit holder in writing if it is determined that the facility meets the requirements of this subchapter.

(b) Denial of renewal. Prior to denial, the executive director shall provide notice to the permit holder with a report which describes the basis for denial.

(1) If denial is based on failure to meet the requirements of §116.311(a) or (b) of this title (relating to Permit Renewal Application), the report shall establish a schedule for compliance with the renewal requirements.

(A) The report shall be forwarded to the permit holder no later than 180 days after the commission receives a completed application.

(B) The permit shall be renewed if the requirements are met according to the schedule specified in the report. The executive director shall notify the permit holder in writing of the permit renewal.

(2) If denial is based on failure to maintain substantial compliance with the TCAA or the terms of the existing permit under §116.311(c) of this title, the renewal denial shall be final. The executive director shall notify the permit holder in writing of the denial.

(c) Contested case hearing. After failure to satisfy the commission requirements for corrective action by the deadline specified in the executive director's report, the applicant shall show cause in a contested case proceeding why the permit should not expire. The proceeding will be conducted under the APA and Chapters 1, 55, and 80 of this title (relating to Purpose of Rules, General Provisions; Request for Contested Case Hearings; Public Comment; and Contested Case Hearings).

(d) Effective date of existing permit. An existing permit shall remain effective:

- (1) until it is renewed;
- (2) until the deadline specified in the executive director's report to the permit holder;
- (3) during the course of a contested case hearing if the hearing extends beyond the expiration date; or
- (4) until a date specified in any commission order entered following a contested case hearing.

Adopted June 17, 1998

Effective July 8, 1998

**§116.315. Permit Renewal Submittal.**

(a) With the exception of subsections (b) and (c) of this section, an application for renewal must be submitted at least six months, but no earlier than 18 months, prior to expiration of the permit or the permit will expire.

(b) With executive director approval, the application may be submitted before or after the time period specified in subsection (a) of this section.

(c) A renewal application with appropriate fee may be submitted at the same time as an amendment application to modify an existing facility as long as it is submitted not more than three years before the permit's expiration date and the amendment is subject to public notice requirements under Texas Health and Safety Code, §382.056, Notice of Intent to Obtain Permit or Permit Review; Hearing.

(d) Any permit issued:

- (1) before December 1, 1991, is subject for review 15 years after the date of issuance;

(2) on or after December 1, 1991, is subject for review every ten years after the date of issuance; or

(3) at non-federal sources on or after December 1, 1991, may, for cause, contain a provision requiring renewal between five and ten years.

Adopted May 7, 2008

Effective May 29, 2008