

CHAPTER 17
TAX RELIEF FOR PROPERTY USED FOR ENVIRONMENTAL
PROTECTION
§§17.1, 17.2, 17.4, 17.6, 17.10, 17.12, 17.14, 17.17, 17.20, 17.25
Effective August 28, 2014

§17.1. Scope and Purpose.

The purpose of this chapter is to establish the procedure and mechanism for an owner of pollution control property to apply to the commission for a determination of pollution control use.

Adopted November 18, 2010

Effective December 13, 2010

§17.2. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), the Texas Tax Code (TTC), or the Texas Health and Safety Code (THSC), or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the fields of pollution control or property taxation. In addition to the terms that are defined by Chapter 3 of this title (relating to Definitions), the TCAA, the TSWDA, TWC, TTC, and THSC, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Capital cost new--The estimated total capital cost of the equipment or process.

(2) Capital cost old--The cost of the equipment that is being or has been replaced by the equipment covered in an application. The value of this variable in the cost analysis procedure is calculated using one of the four hierarchal methods for this variable in the figure in §17.17(b)(1) of this title (relating to Partial Determinations).

(3) Cost analysis procedure--A procedure that uses cost accounting principles to calculate the percentage of a project or process that qualifies for a positive use determination as pollution control property.

(4) Environmental benefit -- The prevention, monitoring, control, or reduction of air, water, and/or land pollution that results from the actions of

the applicant. For purposes of this chapter, environmental benefit does not include the prevention, monitoring, control, or reduction of air, water, and/or land pollution that results from the use or characteristics of the applicant's goods or service produced or provided. For the purpose of this chapter, the terms "environmental benefit" and "pollution control" are synonymous.

(5) Marketable product -- Anything produced or recovered using pollution control property that is sold as a product, is accumulated for later use, or is used as a raw material in a manufacturing process. Marketable product includes, but is not limited to, anything recovered or produced using the pollution control property and sold, traded, accumulated for later use, or used in a manufacturing process (including at a different facility). Marketable product does not include any emission credits or emission allowances that result from installation of the pollution control property.

(6) Partial Determination--A determination that an item of property or a process is not used wholly as pollution control.

(7) Pollution control property--A facility, device, or method for control of air, water, and/or land pollution as defined by TTC, §11.31(b).

(8) Tier I--An application containing property that is on the Tier I Table in §17.14(a) of this title (relating to Tier I Pollution Control Property) or that is necessary for the installation or operation of property located on the Tier I Table.

(9) Tier II--An application for property that is used wholly for the control of air, water, and/or land pollution, but is not located on the Tier I Table in §17.14(a) of this title.

(10) Tier III--An application for property used partially for the control of air, water, and/or land pollution and that does not correspond exactly to an item on the Tier I Table in §17.14(a) of this title.

(11) Use determination--A finding, either positive or negative, by the executive director that the property is used wholly or partially for pollution control purposes and listing the percentage of the property that is determined to be used for pollution control.

Adopted November 18, 2010

Effective December 13, 2010

§17.4. Applicability.

(a) To obtain a positive use determination, the pollution control property must be used, constructed, acquired, or installed wholly or partly to meet or exceed laws, rules, or regulations adopted by any environmental protection agency of the United States, Texas, or a political subdivision of Texas, for the prevention, monitoring, control, or reduction of air, water, or land pollution. In addition, pollution control property must meet the following conditions.

(1) Property must have been constructed, acquired, or installed after January 1, 1994.

(2) Land must include only the portion of the land acquired after January 1, 1994, that actually contains pollution control property.

(3) Equipment, structures, buildings, or devices must not have been taxable by any taxing unit in Texas on or before January 1, 1994, except that if construction of pollution control property was in progress on January 1, 1994, that portion of the property constructed, acquired, or installed after January 1, 1994, is eligible for a positive use determination.

(4) Property purchased from another owner is eligible for a positive use determination if it is acquired, constructed, or installed by the new owner after January 1, 1994, will be used as pollution control property, and was not taxable by any taxing unit in which the property is located on or before that date.

(b) The executive director shall determine the portion of the pollution control property eligible for a positive use determination.

(c) The executive director may not make a determination that property is pollution control property unless all requirements of this section and the applicable requirements of §17.17 of this title (relating to Partial Determination) have been met.

Adopted August 6, 2014

Effective August 28, 2014

§17.6. Property Ineligible for Exemption from Taxation.

The following are not exempt from taxation and are not entitled to a positive use determination under this chapter:

(1) property is not entitled to an exemption from taxation:

(A) solely on the basis that the property is used to manufacture or produce a product or provide a service that prevents, monitors, controls, or reduces air, water, or land pollution;

(B) if the property is used, constructed, acquired or installed wholly to produce a good or provide a service;

(C) if the property is not wholly or partly used, constructed, acquired or installed to meet or exceed law, rule, or regulation adopted by any environmental protection agency of the United States, Texas, or a political subdivision of Texas for the prevention, monitoring, control, or reduction of air, water, or land pollution; or

(D) if the environmental benefit is derived from the use or characteristics of the good or service produced or provided;

(2) property that is used for residential purposes, or for recreational, park, or scenic uses as defined by Texas Tax Code, §23.81;

(3) motor vehicles; and

(4) property that was subject to a tax abatement agreement executed before January 1, 1994. However, property acquired, constructed, or installed after expiration of a tax abatement agreement could be eligible for a positive use determination.

Adopted November 18, 2010

Effective December 13, 2010

§17.10. Application for Use Determination.

(a) To be granted a use determination a person shall submit to the executive director:

(1) a completed and signed commission application form and one copy of the completed, signed form; and

(2) the appropriate fee, under §17.20 of this title (relating to Application Fees).

(b) An application must be submitted for each unit of pollution control property or for each group of integrated units that has been, or will be, installed for a common purpose.

(c) If the applicant desires to apply for a use determination for a specific tax year, the application must be postmarked no later than January 31 of the same tax year. Applications postmarked after this date will be processed as a lower priority than applications postmarked by the due date and without regard for any appraisal district deadlines.

(d) All use determination applications must contain at least the following:

(1) the anticipated environmental benefits from the installation of the pollution control property for the control of air, water, and/or land pollution;

(2) the estimated cost of the pollution control property;

(3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is for pollution control, such as, if deemed by the executive director to be relevant and essential to the use determination, a detailed description of the pollution source and a detailed and labeled process flow diagram that clearly depicts the pollution control property and the processes and equipment that generate the pollutant(s) being controlled;

(4) the specific sections of the law(s), rule(s), or regulation(s) being met or exceeded by the use, installation, construction, or acquisition of the pollution control property;

(5) if the installation includes property that is not used wholly for the control of air, water, and/or land pollution and is not on the Tier I Table, a worksheet showing the calculation of the Cost Analysis Procedure, §17.17(c) of this title, and explaining each of the variables;

(6) any information that the executive director deems reasonably necessary to determine the eligibility of the application;

(7) if the property for which a use determination is sought has been purchased from another owner who previously used the property as pollution control property, a copy of the bill of sale or other information submitted by the person or political subdivision that demonstrates, to the satisfaction of the executive director, that the transaction involves a bona fide change in ownership of the property and is not a sham transaction for the purpose of avoiding tax liability; and

(8) the name of the appraisal district for the county in which the property is located.

Adopted November 18, 2010

Effective December 13, 2010

§17.12. Application Review Schedule.

Following submission of the information required by §17.10 of this title (relating to Application for Use Determination), the executive director shall determine whether the pollution control property is used wholly or partly for the control of air, water, and/or land pollution. If the determination is that the property is used partly for pollution control, the executive director shall determine the proportion of the property used for pollution control.

(1) As soon as practicable, the executive director shall send notice by regular mail or electronic mail to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a use determination under this chapter.

(2) As soon as practicable after receipt of an application for use determination, the executive director shall send written notification informing the applicant that the application is administratively complete or that it is deficient.

(A) If the application is not administratively complete, the notification will specify the deficiencies, and allow the applicant 30 days to provide a revised application with the requested information. If the applicant does not submit the requested information within 30 days, the executive director shall take no further action on the application and the application fee will be forfeited under §17.20(b) of this title (relating to Application Fees). If the first revised application is deficient, the executive director shall send written notification informing the applicant that the application is deficient and providing the applicant 30 days to provide a second revised application. If the second revised application is not administratively complete or the applicant does not provide a second revised application within the 30 days, the executive director shall take no further action on the application and the application fee will be forfeited under §17.20(b) of this title.

(B) The executive director may request additional technical information within 60 days of issuance of an administrative completeness letter. If additional information is requested, the applicant shall provide a revised application with the requested information. If the revised application is determined to be incomplete or the applicant does not provide the requested technical information within 30 days, the executive director may request additional technical information or the executive director may decide to take no further action on the application and the application fee will be forfeited under

§17.20(b) of this title. The executive director may not issue more than two notices of deficiency after the issuance of an administrative completeness letter on an application.

(C) The technical review process is limited to a total of 230 days from the date of declaration that the application is administratively complete. If at the end of the review period the application is considered to be incomplete, the executive director shall issue a negative use determination for failure to document the eligibility of the property/equipment to receive a positive use determination.

(D) An application where the executive director will take no further action under subparagraph (A) or (B) of this paragraph may be refiled by the applicant. In such cases, the applicant shall pay the appropriate fee as required by §17.20 of this title.

(3) For applications covering property listed in the table in §17.17(b) of this title (relating to Partial Determinations), the executive director will complete the technical review of the application within 30 days of receipt of the required application information without regard to whether the information required by §17.10(d)(1) of this title has been submitted.

(4) The executive director shall determine whether the property is or is not used wholly or partly to control pollution. The executive director is authorized to grant positive use determinations for the portion of the property included in the application that is deemed pollution control property.

(A) If a positive use determination is made, the executive director shall issue a use determination letter to the applicant that describes the proportion of the property that is pollution control property.

(B) If a negative use determination is made, the executive director shall issue a denial letter explaining the reason for the denial.

(C) A letter enclosing a copy of the determination shall be sent by regular or electronic mail to the chief appraiser of the appraisal district for the county in which the property is located.

Adopted August 6, 2014

Effective August 28, 2014

§17.14. Tier I Pollution Control Property.

(a) For the property listed in the Tier I Table located in this subsection that is used wholly for pollution control purposes, a Tier I application is required. A Tier I application must not include any property that is not listed in this subsection or that is used for pollution control purposes at a use percentage that is different than what is listed in the table. If a marketable product is recovered (not including materials that are disposed) from property listed in this subsection, a Tier III application is required.

Figure: 30 TAC §17.14(a)

Tier I Table

The property listed in this table is property that the executive director has determined is used wholly for pollution control purposes when used as shown in the Description section of the table and when no marketable product arises from using the property. The items listed are described in generic terms without the use of brand names or trademarks. The use percentages on all property on the table are established based on standard uses of the pieces of equipment involved. If the executive director determines that the equipment is not being used in a standard manner (e.g., use in production or recovery of a marketable product), the executive director may require that a Tier III application, using the Cost Analysis Procedure, be filed by the applicant to calculate the appropriate use determination percentage. For items where the description limits the use determination to the incremental cost difference, the cost of the property or device with the pollution control feature is compared to a similar device or property without the pollution control feature. The table is a list adopted under Texas Tax Code, §11.31(g).

Air Pollution Control Equipment

Particulate Control Devices

| No. | Media | Property | Description | % |
|-----|-------|-------------------------|---|-----|
| A-1 | Air | Dust Collection Systems | Structures containing filters, blowers, ductwork - used to remove particulate matter from exhaust gas streams in order to prevent release of particulate matter to ambient air. | 100 |

| | | | | |
|-----|-----|---|---|-----|
| A-2 | Air | Demisters or Mist Eliminators Added | Mesh pads or cartridges - used to remove entrained liquid droplets from exhaust gas streams. | 100 |
| A-3 | Air | Electrostatic Precipitators | Wet or dry particulate collection created by an electric field between positive or negative electrodes and collection surface. | 100 |
| A-4 | Air | Dry Cyclone Separators | Single or multiple inertial separators with blowers and ductwork used to remove particulate matter from exhaust gas streams. | 100 |
| A-5 | Air | Scrubbers | Wet collection device using spray chambers, wet cyclones, packed beds, orifices, venturi, or high- pressure sprays to remove particulates and chemicals from exhaust gas streams. System may include pumps, ductwork, and blowers needed for the equipment to function. | 100 |
| A-6 | Air | Water/ Chemical Sprays and Enclosures for Particulate Suppression | Spray nozzles, conveyor and chute covers, windshields, piping, and pumps used to reduce fugitive particulate emissions. | 100 |
| A-7 | Air | Smokeless Igniters | Installed on electric generating units to control particulate emissions and opacity on start-up. | 100 |

Combustion Based Control Devices

| No. | Media | Property | Description | % |
|------|-------|-----------------------|--|-----|
| A-20 | Air | Thermal Oxidizers | Thermal destruction of air pollutants by direct flame combustion. | 100 |
| A-21 | Air | Catalytic Oxidizer | Thermal destruction of air pollutants that uses a catalyst to promote oxidation. | 100 |
| A-22 | Air | Flare/Vapor Combustor | Stack, burner, flare tip, and blowers used to destroy air contaminants in a vent gas stream. | 100 |

Non-Volatile Organic Compounds Gaseous Control Devices

| No. | Media | Property | Description | % |
|------|-------|-----------------|--|-----|
| A-40 | Air | Molecular Sieve | Microporous filter used to remove hydrogen sulfide (H ₂ S) or nitrogen oxides (NO _x) from a waste gas stream. | 100 |

| | | | | |
|------|-----|---|---|-----|
| A-41 | Air | Strippers Used in Conjunction with Final Control Device | Stripper, with associated pumps, piping - used to remove contaminants from a waste gas stream or waste liquid stream. | 100 |
| A-42 | Air | Chlorofluorocarbon (CFC) Replacement Projects | Projects to replace one CFC with an environmentally cleaner CFC or other refrigerant where there is no increase in the cooling capacity or the efficiency of the unit. Includes all necessary equipment needed to replace the CFC and achieve the same level of cooling capacity. | 100 |
| A-43 | Air | Halon Replacement Projects | All necessary equipment needed to replace the Halon in a fire suppression system with an environmentally cleaner substance. | 100 |

Monitoring and Sampling Equipment

| No. | Media | Property | Description | % |
|------|-------|--|--|-----|
| A-60 | Air | Fugitive Emission Monitors | Organic vapor analyzers - used to discover leaking piping components. | 100 |
| A-61 | Air | Continuous & Noncontinuous Emission Monitors | Monitors, analyzers, buildings, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations of regulated air contaminants, (including flow and diluent gas monitors and dedicated buildings). | 100 |
| A-62 | Air | Monitoring Equipment on Final Control Devices | Temperature monitor or controller, flow-meter, pH meter, and other meters for a pollution control device. Monitoring of production equipment or processes is not included. | 100 |
| A-63 | Air | On or Off-Site Ambient Air Monitoring Facilities | Towers, structures, analytical equipment, sample collectors, monitors, and power supplies used to monitor for levels of contaminants in ambient air. | 100 |
| A-64 | Air | Noncontinuous Emission Monitors, Portable | Portable monitors, analyzers, structures, trailers, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations. | 100 |
| A-65 | Air | Predictive Emission Monitors | Monitoring of process and operational parameters that are used solely to calculate or determine compliance with emission limitations. | 100 |

| | | | | |
|------|-----|-------------------------|---|-----|
| A-66 | Air | Sampling Ports | Construction of stack or tower sampling ports used for emission sampling or for the monitoring of process or operational parameters that are used to calculate or determine compliance with emission limitations. | 100 |
| A-67 | Air | Automotive Dynamometers | Automotive dynamometers used for emissions testing of fleet vehicles. | 100 |

Nitrogen Oxides Controls

| No. | Media | Property | Description | % |
|------|-------|---|--|-----|
| A-80 | Air | Selective Catalytic and Non-catalytic Reduction Systems | Catalyst bed, reducing agent injection and storage, monitors - used to reduce nitrogen oxides (NO _x) emissions from combustion sources. Non-catalytic systems use a reducing agent without a catalyst. | 100 |
| A-81 | Air | Catalytic Converters for Stationary Sources | Used to reduce NO _x emissions from internal combustion engines. | 100 |
| A-82 | Air | Air/Fuel Ratio Controllers for Piston- Driven Internal Combustion Engines | Used to control the air/fuel mixtures and reduce NO _x formation for fuel injected, naturally aspirated, or turbocharged engines. | 100 |
| A-83 | Air | Flue Gas Recirculation | Ductwork and blowers used to redirect part of the flue gas back to the combustion chamber for reduction of NO _x formation. May include fly ash collection in coal fired units. | 100 |
| A-84 | Air | Water/Steam Injection | Piping, nozzles, and pumps to inject water or steam into the burner flame of utility or industrial burners or the atomizer ports for gas turbines, used to reduce NO _x formation. | 100 |
| A-85 | Air | Over-fire Air & Combination of asymmetric over-fire air with the injection of anhydrous ammonia or other pollutant- reducing agents | The asymmetric over- fire air layout injects preheated air and anhydrous ammonia or other pollutant-reducing agent through nozzles through a series of ducts, dampers, expansion joints, and valves. | 100 |

| | | | | |
|------|-----|---|---|-----|
| A-86 | Air | Low-NO _x Burners | Installation of low-NO _x burners. The eligible portion is the incremental cost difference. For a replacement burner, the incremental cost difference is calculated by comparing the cost of the new burner with the cost of the existing burner. For new installations, the incremental cost difference is calculated by comparing the cost of the new burner to the cost of a similarly sized burner without NO _x controls from the most recent generation of burners. | 100 |
| A-87 | Air | Water Lances | Installed in the fire box of boilers and industrial furnaces to eliminate hot spots, thereby reducing NO _x formation. | 100 |
| A-88 | Air | Electric Power Generation Burner Retrofit | Retrofit of existing burners on electric power generating units with components for reducing NO _x including directly related equipment. | 100 |
| A-89 | Air | Wet or Dry Sorbent Injection Systems | Use of a sorbent for flue gas desulfurization or NO _x control. | 100 |

Volatile Organic Compounds Control

| No. | Media | Property | Description | % |
|-------|-------|---|---|-----|
| A-110 | Air | Carbon Adsorption Systems | Carbon beds or liquid-jacketed systems, blowers, piping, condensers - used to remove volatile organic compounds (VOC) emissions and odors from exhaust gas streams. | 100 |
| A-111 | Air | Storage Tank Secondary Seals and Internal Floating Roofs | Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks. | 100 |
| A-112 | Air | Replacement of Existing Pumps, Valves, or Seals in Piping Service | The incremental cost difference between the cost of the original equipment and the replacement equipment is eligible only when the replacement of these parts is done for the sole purpose of eliminating fugitive VOC emissions. New systems do not qualify for this item. | 100 |
| A-113 | Air | Welding of Pipe Joints in VOC Service (Existing Pipelines) | Welding of existing threaded or flanged pipe joints to eliminate fugitive emission leaks. | 100 |

| | | | | |
|-------|-----|--|--|-----|
| A-114 | Air | Welding of Pipe Joints in VOC Service (New Construction) | The incremental cost difference between the cost of using threaded or flanged joints and welding of pipe joints in VOC service. | 100 |
| A-115 | Air | External Floating Roofs | Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks. Must be installed to meet or exceed §115.112 of this title (relating to Control Requirements). | 100 |

Mercury Control

| No. | Media | Property | Description | % |
|-------|-------|----------------------------|--|-----|
| A-130 | Air | Sorbent Injection Systems | Sorbents sprayed into the flue gas that chemically react to absorb mercury. The sorbents are then removed by a particulate removal device. Equipment may include pumps, tanks, blowers, nozzles, ductwork, hoppers, and particulate collection devices needed for the equipment to function. | 100 |
| A-131 | Air | Fixed Sorbent Systems | Equipment, such as stainless steel plate with a gold coating that is installed in the flue gas to absorb mercury. | 100 |
| A-132 | Air | Mercury Absorbing Filters | Filters that absorb mercury such as those using the affinity between mercury and metallic selenium. | 100 |
| A-133 | Air | Oxidation Systems | Equipment used to change elemental mercury to oxidized mercury. This can be catalysts (similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives that can be added to the flue gas or directly to the fuel. | 100 |
| A-134 | Air | Photochemical Oxidation | Use of an ultraviolet light from a mercury lamp to provide an excited state mercury species in flue gas, leading to oxidation of elemental mercury. These units are only eligible if mercury is removed from flue gas. | 100 |
| A-135 | Air | Chemical Injection Systems | Equipment used to inject chemicals into the combustion zone or flue gas that chemically bonds mercury to the additive, which is then removed in a particulate removal device. | 100 |

Sulfur Oxides Controls

| No. | Media | Property | Description | % |
|-------|-------|---|--|-----|
| A-160 | Air | Wet and Dry Scrubbers | Circulating fluid bed and moving bed technologies using a dry sorbent or various wet scrubber designs that inject a wet sorbent into the scrubber. | 100 |
| A-161 | Air | Selective Catalytic and Non-catalytic Reduction Systems | Catalyst bed, reducing agent injection and storage, monitors - used to reduce sulfur oxide emissions from combustion sources. Non-catalytic systems use a reducing agent without a catalyst. | 100 |

Miscellaneous Control Equipment

| No. | Media | Property | Description | % |
|-------|-------|---|---|-----|
| A-180 | Air | Hoods, Duct and Collection Systems connected to Final Control Devices | Piping, headers, blowers, hoods, and ducts used to collect air contaminants and route them to a control device. | 100 |
| A-181 | Air | Stack Modifications | Construction of stack extensions to meet a permit requirement. | 100 |
| A-182 | Air | New Stack Construction | The incremental cost difference between the stack height required for production purposes and the stack height required for pollution control purposes. | 100 |
| A-183 | Air | Stack Repairs | Repairs made to an existing stack for that stack to provide the same level of pollution control as was previously provided. | 100 |
| A-184 | Air | Vapor/Liquid Recovery Equipment (for venting to a control device) | Piping, blowers, vacuum pumps, and compressors used to capture a waste gas or liquid stream and vent to a control device, including those used to eliminate emissions associated with loading tank trucks, rail cars, and barges. | 100 |
| A-185 | Air | Paint Booth Control Devices | Pollution control equipment associated with the paint booth - including the items such as the control device, water curtain, filters, or other devices to capture paint fumes. | 100 |

| | | | | |
|-------|-----|---|--|-----|
| A-186 | Air | Blast Cleaning System - Connected to a Control Device | Particulate control device and blast material recycling system. | 100 |
| A-187 | Air | Amine or Chilled Ammonia Scrubber | Installed to provide post combustion capture of pollutants (including carbon dioxide upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating carbon dioxide as a pollutant). | 100 |
| A-188 | Air | Catalyst-based Systems | Installed to allow the use of catalysts to reduce pollutants in emission streams. | 100 |
| A-189 | Air | Enhanced Scrubbing Technology | Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber. | 100 |

Water and Wastewater Pollution Control Equipment

Solid Separation and De-watering

| No. | Media | Property | Description | % |
|-----|-------------|--|--|-----|
| W-1 | Water | API Separator | Separates oil, water, and solids by settling and skimming. | 100 |
| W-2 | Waste water | CPI Separator | Mechanical oil, water, and solids separator. | 100 |
| W-3 | Waste water | Dissolved Air Flotation | Mechanical oil, water, and solids separator. | 100 |
| W-4 | Waste water | Skimmer | Used to remove hydrocarbon from process wastewater. | 100 |
| W-5 | Waste water | Decanter | Used to decant hydrocarbon from process wastewater. | 100 |
| W-6 | Waste water | Belt Press, Filter Press, or Plate and Frame | Mechanical de-watering devices | 100 |
| W-7 | Water | Centrifuge | Separation of liquid and solid waste by centrifugal force, typically a rotating drum | 100 |
| W-8 | Water | Settling Basin | Simple tank or basin for gravity separation of suspended solids | 100 |
| W-9 | Water | Equalization | Tank, sump, or headbox used to settle solids and equilibrate process wastewater streams. | 100 |

| | | | | |
|------|-------|-----------|--|-----|
| W-10 | Water | Clarifier | Circular settling basins usually containing surface skimmers and sludge removal rakes. | 100 |
|------|-------|-----------|--|-----|

Disinfection

| No. | Media | Property | Description | % |
|------|-------|---------------------------|---|-----|
| W-20 | Water | Chlorination | Wastewater disinfection treatment using chlorine | 100 |
| W-21 | Water | De-chlorination | Equipment for removal of chlorine from water or wastewater. | 100 |
| W-22 | Water | Electrolytic Disinfection | Disinfect water by the use of electrolytic cells. | 100 |
| W-23 | Water | Ozonization | Equipment that generates ozone for the disinfection of wastewater. | 100 |
| W-24 | Water | Ultraviolet | Disinfection of wastewater by the use of ultraviolet light. | 100 |
| W-25 | Water | Mixed Oxidant Solution | Solution of chlorine, chlorine dioxide, and ozone to replace chlorine for disinfection. | 100 |

Biological Systems

| No. | Media | Property | Description | % |
|------|-------|-----------------------------------|--|-----|
| W-30 | Water | Activated Sludge | Wastewater treatment using microorganisms to metabolize biodegradable organic matter in aqueous waste streams. Can include tanks, aeration equipment, clarifiers, and equipment used to handle sludge. | 100 |
| W-31 | Water | Adsorption | Use of activated carbon to remove organic contaminants from wastewater. | 100 |
| W-32 | Water | Aeration | Passing air through wastewater to increase oxygen available for bacterial activities that remove contaminants. | 100 |
| W-33 | Water | Rotary Biological Contactor | Use of large rotating discs that contain a bio-film of microorganisms that promote biological purification of the wastewater. | 100 |
| W-35 | Water | Trickling Filter | Fixed bed of highly permeable media in which wastewater passes through and forms a slime layer to remove contaminants. | 100 |
| W-36 | Water | Wetlands and Lagoons (artificial) | Artificial marsh, swamp, or pond that uses vegetation and natural microorganisms as bio-filters to remove sediment and other pollutants from wastewater or stormwater. | 100 |

| | | | | |
|------|-------|----------|---|-----|
| W-37 | Water | Digester | Enclosed, heated tanks for treatment of sludge that is broken down by bacterial action. | 100 |
|------|-------|----------|---|-----|

Other Equipment

| No. | Media | Property | Description | % |
|------|-------|--|---|-----|
| W-50 | Water | Irrigation | Equipment that is used to disburse treated wastewater through irrigation on the site. | 100 |
| W-51 | Water | Outfall Diffuser | Device used to diffuse effluent discharge from an outfall. | 100 |
| W-52 | Water | Activated Carbon Treatment | Use of carbon media such as coke or coal to remove organics and particulate from wastewater. May be used in either fixed or fluidized beds. | 100 |
| W-53 | Water | Oxidation Ditches and Ponds | Process of pumping air bubbles into a pond to assist in oxidizing organic and mineral pollution. | 100 |
| W-54 | Water | Filters: Sand, Gravel, or Microbial | Passing wastewater through a sand or gravel bed to remove solids and reduce bacteria. | 100 |
| W-55 | Water | Chemical Precipitation | Process used to remove heavy metals from wastewater. | 100 |
| W-56 | Water | Ultra-filtration | Use of semi-permeable membrane and hydrostatic pressure to filter solids and high molecular weight solutes from wastewater. | 100 |
| W-57 | Water | Conveyances, Pumps, Sumps, Tanks, Basins | Used to segregate storm water from process water, control storm water runoff, or convey contaminated process water. | 100 |
| W-58 | Water | Water Recycling Systems | Installed systems, excluding cooling towers, that clean, recycle, or reuse wastewater or use gray water or storm water to reduce the amount of a facility's discharge or the amount of new water used as process or make-up water including Zero Discharge Systems. | 100 |
| W-59 | Water | Wastewater Treatment Facility/Plant | New wastewater treatment facilities (including on-site septic systems) constructed to process wastewater generated on site. | 100 |
| W-60 | Water | High-Pressure Reverse Osmosis | The passing of a contaminated water stream over a permeable membrane at high pressure to collect contaminants. | 100 |
| W-61 | Water | Hydro-cyclone Vapor Extraction | An air-sparged hydro-cyclone for the removal of VOCs from a wastewater stream. | 100 |

| | | | | |
|------|-------|---------------------------------|--|-----|
| W-62 | Water | Recycled Water Cleaning System | Equipment used to collect and recycle the water used in a high-pressure water system for cleaning contaminants from equipment and pavement. | 100 |
| W-63 | Water | Chemical Oxidation | Use of hydrogen peroxide or other oxidants for wastewater treatment. | 100 |
| W-64 | Water | Storm Water Containment Systems | Structures or liners used for containment of runoff from rainfall. The land that is actually occupied by the containment structure is eligible for a positive use determination. | 100 |
| W-65 | Water | Wastewater Impoundments | Ponds used for the collection of water after use and before circulation. | 100 |
| W-66 | Water | Oil/Water Separator | Mechanical device used to separate oils from storm water. | 100 |

Control/Monitoring Equipment

| No. | Media | Property | Description | % |
|------|-------|---|---|-----|
| W-70 | Water | pH Meter, Dissolved Oxygen Meter, or Chart Recorder | Used for wastewater operations control and monthly reporting requirements. | 100 |
| W-71 | Water | On-line Analyzer | Device that conducts chemical analysis on sample streams for wastewater operations control. | 100 |
| W-72 | Water | Neutralization | Control equipment used to adjust pH of wastewater treatment components. | 100 |
| W-73 | Water | Respirometer | Device used to measure oxygen uptake or carbon dioxide (CO ₂) release in wastewater treatment systems. | 100 |
| W-74 | Water | Diversion | Structures used for the capture and control of storm water and process wastewater or emergency diversion of process material. Land means only land that is actually occupied by the diversion or storage structure. | 100 |
| W-76 | Water | Building | Used for housing wastewater control and monitoring equipment. | 100 |
| W-77 | Water | De-foaming Systems | Systems consisting of nozzles, pilings, spray heads, and piping used to reduce surface foam. | 100 |

Solid Waste Management Pollution Control Equipment

Solid Waste Management

| No. | Media | Property | Description | % |
|-----|--------------------|--|--|-----|
| S-1 | Land/ Water | Stationary Mixing and Sizing Equipment | Immobile equipment used for solidification, stabilization, or grinding of self-generated waste material for the purpose of disposal. | 100 |
| S-2 | Land/ Water | Decontamination Equipment | Equipment used to remove waste contamination or residues from vehicles that leave the facility. | 100 |
| S-3 | Land/ Water | Solid Waste Incinerator (not used for energy recovery and export or material recovery) | Solid waste incinerators, feed systems, ash handling systems, and controls. | 100 |
| S-4 | Land/ Water/Air | Monitoring and Control Equipment | Alarms, indicators, and controllers, for high liquid level, pH, temperature, or flow in waste treatment system. Does not include fire alarms. | 100 |
| S-5 | Land/ Water | Solid Waste Treatment Vessels | Any vessel used for waste treatment. | 100 |
| S-6 | Land/ Water | Secondary Containment | External structure or liner used to contain and collect liquids released from a primary containment device and/or ancillary equipment. Main purpose is to prevent groundwater or soil contamination. | 100 |
| S-7 | Land/ Water | Linings (Noncommercial Landfills and Impoundments) | A continuous layer or layers of natural and/or man-made materials that restrict downward or lateral escape of wastes or leachate in an impoundment or landfill. | 100 |
| S-8 | Land/ Water | Leachate Collection and Removal Systems | A system capable of collecting leachate or liquids, including suspended solids, generated from percolation through or drainage from a waste. Systems for removal of leachate may include sumps, pumps, and piping. | 100 |
| S-9 | Land/ Water | Leak Detection Systems | A system capable of detecting the failure of a primary or secondary containment structure or the presence of a liquid or waste in a containment structure. | 100 |

| | | | | |
|------|----------------|---|---|-----|
| S-10 | Land/ Water | Final Cover Systems for Landfills (Noncommercial) | A system of liners and materials to provide drainage, erosion prevention, infiltration minimization, gas venting, and a biotic barrier. | 100 |
| S-11 | Land/ Water | Lysimeters | An unsaturated zone monitoring device used to monitor soil-pore liquid quality at a waste management unit (e.g., below the treatment zone of a land treatment unit). | 100 |
| S-12 | Water | Groundwater Monitoring Well and Systems | A groundwater well or system of wells designed to monitor the quality of groundwater at a waste management unit (e.g., detection monitoring systems or compliance monitoring systems). | 100 |
| S-13 | Air | Fugitive Emission Monitors | A monitoring device used to monitor or detect fugitive emissions from a waste management unit or ancillary equipment. | 100 |
| S-14 | Land/ Water | Slurry Walls/Barrier Walls | A pollution control method using a barrier to minimize lateral migration of pollutants in soils and groundwater. | 100 |
| S-15 | Water | Groundwater Recovery or Remediation System | A groundwater remediation system used to remove or treat pollutants in contaminated groundwater or to contain pollutants (e.g., pump-and-treat systems). | 100 |
| S-16 | Water | Noncommercial Injection Wells (Including Saltwater Disposal Wells) and Ancillary Equipment | Injection well, pumps, collection tanks and piping, pretreatment equipment, and monitoring equipment. | 100 |
| S-17 | Land/ Water | Noncommercial Landfills (used for disposal of self-generated waste materials) and Ancillary Equipment | Excavation, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, waste hauling equipment, decontamination facilities, security systems, and equipment used to manage the disposal of waste in the landfill. | 100 |

| | | | | |
|------|----------------|---|--|-----|
| S-18 | Land/ Water | Resource Conservation Recovery Act Containment Buildings (used for storage or treatment of hazardous waste) | Pads, structures, solid waste treatment equipment used to meet the requirements of 30 TAC Chapter 335, Subchapter O – Land Disposal Restrictions, §335.431. | 100 |
| S-19 | Land/ Water | Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds) | Excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, and pumps. | 100 |
| S-20 | Land/ Water | Waste Storage Used to Collect and/or Store Waste Prior to Treatment or Disposal | Tanks, containers and ancillary equipment such as pumps, piping, secondary containment, and vent controls (e.g., Resource Conservation Recovery Act Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities). | 100 |
| S-21 | Air | Fugitive Emission Containment Structures | Structures or equipment used to contain or reduce fugitive emissions or releases from waste management activities (e.g., coverings for conveyors, chutes, enclosed areas for loading and unloading activities). | 100 |
| S-22 | Water | Double-Hulled Barge | If double-hulled to reduce chance of leakage into public waters, calculate the incremental cost difference between a single-hulled barge and a double-hulled barge. | 100 |
| S-23 | Land | Composting Equipment | Used to compost material where the compost will be used on site. (Does not include commercial composting facilities.) | 100 |
| S-24 | Land | Compost Application Equipment | Equipment used to apply compost that has been generated on-site. | 100 |
| S-25 | Land | Vegetated Compost Sock | Put in place as part of a facility's permanent Best Management Plan (BMP). | 100 |
| S-26 | Air | Foundry Sand Reclamation Systems for Foundries | Components of a sand reclamation system that provide specific pollution control. Includes hooding over shaker screens vented to a dust collector, conveyor covers, and emission control devices at other points. | 100 |

| | | | | |
|------|------------------|---|---|-----|
| S-27 | Air/Water / Land | Concrete Reclaiming Equipment | Processes mixed, un-poured concrete batches to reclaim the sand and gravel for reuse and recycles the water in a closed loop system. | 100 |
| S-28 | Land | Fencing installed for the control of windblown trash or access control. | Fencing installed at landfills, solid waste transfer stations, or storage/treatment areas located at hazardous waste management facilities to meet environmental regulations. | 100 |

Miscellaneous Pollution Control Equipment

| No. | Media | Property | Description | % |
|-----|------------------------|---|--|-----|
| M-1 | Air/ Land/ Water | Spill Response/ Cleanup Equipment Pre-positioned and Stored for Addressing Future Emergencies | Boats, barges, booms, skimmers, trawls, pumps, power units, packaging materials and containers, vacuum trailers, storage sheds, diversion basins, tanks, and dispersants. | 100 |
| M-2 | Air/ Land | Hazardous Air Pollutant Abatement Equipment - required removal material contaminated with asbestos, lead, or some other hazardous air pollutant | High-Efficiency Particulate Arresting (HEPA) Vacuum Equipment, Negative Air Pressure Enclosures, Glove Bags, and Disposal Containers. | 100 |
| M-3 | Air/ Land/ Water | Vacuum Trucks, Street Sweepers and Watering Trucks | Mobile Surface Cleaning Equipment - used exclusively to control particulate matter on plant roads. (Does not include sweepers or scrubbers used to control particulate matter within buildings.) | 100 |
| M-4 | Land | Compactors, Barrel Crushers, Balers, Shredders | Compactors and similar equipment used to change the physical format of waste material for recycling/reuse purposes or on-site disposal of facility-generated waste. | 100 |
| M-5 | Air/ Land/ Water | Solvent Recovery Systems | Used to remove hazardous content from waste solvents by heat, vaporization, and condensation, by filtration, or by other means. The recycled solvents must be reused at the facility generating the waste. | 100 |

| | | | | |
|------|------------------------|---|--|-----|
| M-6 | Land/ Water | Boxes, Bins, Carts, Barrels, Storage Bunkers | Collection/storage containers for source-separation of materials to be recycled or reused. Does not include product storage containers or facilities. | 100 |
| M-7 | Air | Environmental Paving Located at Industrial Facilities | Paving of outdoor vehicular traffic areas in order to meet or exceed an adopted air quality rule, regulation, or law. Does not include paving of parking areas or driveways for convenience purposes or storm water control. Does not include dirt or gravel. Value of the paving must be stated on a square foot basis with a plot plan provided that shows the paving in question. | 100 |
| M-8 | Air/ Land/ Water | Sampling Equipment | Equipment used to collect samples of exhaust gas, wastewater, soil, or other solid waste to be analyzed for specific contaminants or pollutants. | 100 |
| M-9 | Water | Dry Stack Building for Poultry Litter | A pole-barn type structure used to temporarily store poultry litter in an environmentally safe manner. | 100 |
| M-10 | Land/ Water | Poultry Incinerator | Incinerators used to dispose of poultry carcasses. | 100 |
| M-11 | Land/ Water | Structures, Enclosures, Containment Areas, Pads for Composting Operations | Required to meet 'no exposure' storm water regulations. | 100 |
| M-12 | Air | Methane Capture Equipment | Equipment used to capture methane generated by the decomposition of waste material on site. Methane must be sent to a control device rather than used. | 100 |
| M-13 | Land | Drilling Mud Recycling System | Consisting of only the Shaker Tank System, Shale Shakers, Desilter, Desander, and Degasser. | 100 |
| M-14 | Land | Drilling Rig Spill Response Equipment | Includes only the Ram Type Blowout Preventers, Closing Units, and Choke Manifold Systems. | 100 |
| M-15 | Air | Odor Neutralization and Chemical Treatment Systems | Carbon adsorption, zeolite adsorption, and other odor neutralizing and chemical treatment systems to meet local ordinance or to prevent/correct nuisance odors at off-site receptors. | 100 |

| | | | | |
|------|----------------|---|--|-----|
| M-16 | Air | Odor Dispersing and Removal Systems | Electrostatic precipitators, vertical dispersing fans, stack extensions, and other physical control equipment used to dilute, disperse, or capture nuisance odor vent streams. | 100 |
| M-17 | Air | Low NO _x Combustion System for Drilling Rigs | Equipment on power generating units designed solely to reduce NO _x generation | 100 |
| M-18 | Air | Odor Detectors | Olfactometers, gas chromatographs, and other analytical instrumentation used specifically for detecting and measuring ambient odor, either empirically or chemical specific. | 100 |
| M-19 | Land | Cathodic Protection | Cathodic protection installed to prevent corrosion of metal tanks and piping. | 100 |
| M-20 | Water | Fish and Other Aquatic Organism Protection Equipment | Equipment installed to protect fish and other aquatic organisms from entrainment or impingement in an intake cooling water structure. Equipment includes: Aquatic Filter Barrier Systems, Fine-Mesh Traveling Intake Screens, Fish Return Buckets, Sprays, Flow-Altering Louvers, Fish Trough, Fish Behavioral Deterrents, and Wetland Creation. | 100 |
| M-21 | Water/ Land | Double-walled Piping | The difference between cost of single walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges. | 100 |
| M-22 | Water/ Land | Double-walled Tanks | The difference between cost of single walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed to prevent unauthorized discharges. | 100 |

Equipment Located at Tank Installations including Service Stations

Spill and Overfill Prevention Equipment

| No. | Media | Property | Description | % |
|-----|-------|---------------------|---|-----|
| T-1 | Water | Tight Fill Fittings | Liquid tight connections between the delivery hose and fill pipe. | 100 |
| T-2 | Water | Spill Containers | Spill containment manholes equipped with either a bottom drain valve to return liquids to the tank or a hand pump for liquid removal. | 100 |

| | | | | |
|-----|-------|---------------------------|--|-----|
| T-3 | Water | Automatic Shut-off Valves | Flapper valves installed in the fill pipe to automatically stop the flow of product. | 100 |
| T-4 | Water | Overfill Alarms | External signaling device attached to an automatic tank gauging system. | 100 |
| T-5 | Water | Vent Restriction Devices | Float vent valves or ball float valves to prevent backflow through vents. | 100 |

Secondary Containment

| No. | Media | Property | Description | % |
|------|----------------|---|---|-----|
| T-10 | Water | Double-walled Tanks | The difference between cost of single-walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed to prevent unauthorized discharges or leaks. | 100 |
| T-11 | Water | Double-walled Piping | The difference between cost of single-walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges or leaks. | 100 |
| T-12 | Water | Tank Top Sumps | Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment. | 100 |
| T-13 | Water | Under Dispenser Sumps | Contains leaks and spills from dispensers and pumps. | 100 |
| T-14 | Water | Sensing Devices | Installed to monitor for product accumulation in secondary containment sumps. | 100 |
| T-15 | Land/ Water | Concrete Paving Above Underground Tanks and Pipes | Required concrete paving located above underground pipes and tanks. The use determination value is limited to the difference between the cost per square foot of the concrete paving and the cost per square foot of the other paving installed at the service station. This item only applies to service stations. | 100 |

Release Detection for Tanks and Piping

| No. | Media | Property | Description | % |
|-----|-------|----------|-------------|---|
|-----|-------|----------|-------------|---|

| | | | | |
|------|-------|--------------------------------------|--|-----|
| T-20 | Water | Automatic Tank Gauging | Includes tank gauging probe and control console | 100 |
| T-21 | Water | Groundwater or Soil Vapor Monitoring | Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation | 100 |
| T-22 | Water | Monitoring of Secondary Containment | Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping | 100 |
| T-23 | Water | Automatic Line Leak Detectors | Devices installed at the pump that are designed to detect leaks in underground piping. Mechanical and electronic devices are acceptable. | 100 |
| T-24 | Water | Under Pump Check Valve | Valve installed to prevent back flow in the fuel dispensing line. This device is only used on suction pump piping systems. | 100 |
| T-25 | Water | Tightness Testing Equipment | Equipment purchased to comply with tank and/or piping tightness testing requirements. | 100 |

Cathodic Protection

| No. | Media | Property | Description | % |
|------|-------|---------------------|--|-----|
| T-30 | Water | Isolation Fittings | Dielectric bushings and fittings to separate underground piping from aboveground tanks and piping. | 100 |
| T-31 | Water | Sacrificial Anodes | Magnesium or zinc anodes packaged in low resistivity backfill to provide galvanic protection. | 100 |
| T-32 | Water | Dielectric Coatings | Factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. Field installed coatings limited to exposed threads, fittings, and damaged surface areas. | 100 |

Emissions Control Equipment

| No. | Media | Property | Description | % |
|-----|-------|----------|-------------|---|
|-----|-------|----------|-------------|---|

| | | | | |
|------|-----|------------------------------------|---|-----|
| T-40 | Air | Stage I or Stage II Vapor Recovery | Includes pressure/vacuum vent relief valves, vapor return piping, stage 2 nozzles, coaxial hoses, vapor processing units, and vacuum- assist units. Used for motor vehicle fuel dispensing facilities. Does not include fuel delivery components of fuel dispensing unit. | 100 |
|------|-----|------------------------------------|---|-----|

(b) The commission shall review and update the Tier I Table at least once every three years.

(1) The commission may add an item to the table only if there is compelling evidence to support the conclusion that the item provides pollution control benefits and a justifiable pollution control percentage is calculable.

(2) The commission may remove an item from the table only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits.

Adopted August 6, 2014

Effective August 28, 2014

§17.17. Partial Determinations.

(a) A Tier III application requesting a partial determination must be submitted for all property that is either not on the Tier I Table located in §17.14(a) of this title (relating to Tier I Pollution Control Property), or does not fully satisfy the requirements for a 100% positive use determination under this chapter. For all property for which a partial use determination is sought, the cost analysis procedure (CAP) described in subsection (c) of this section must be used.

(b) The Expedited Review List in this subsection is adopted as a nonexclusive list of facilities, devices, or methods for the control of air, water, and/or land pollution. This table consists of the list located in Texas Tax Code, §11.31(k) with changes as authorized by Texas Tax Code, §11.31(l). The commission shall review and update the items listed in this table only if there is compelling evidence to support the conclusion that the item provides pollution control benefits. The commission may remove an item from this table only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits.

Figure: 30 TAC §17.17(b)

Expedited Review List

| No. | Property | Description |
|-----|--|---|
| B-1 | Coal Cleaning or Refining Facilities | Used to remove impurities from coal in order to boost the heat content and to reduce potential air pollutants. |
| B-2 | Atmospheric or Pressurized and Bubbling or Circulating Fluidized Bed Combustion Systems and Gasification Fluidized Bed Combustion Combined Cycle Systems | Combustion systems that reduce pollution through the use of a fluidized bed that can be atmospheric and bubbling or circulating; gasification combined cycle systems; or pressurized and bubbling or circulating systems. |
| B-3 | Ultra-Supercritical Pulverized Coal Boilers | Boiler system designed to provide 4500 pounds per square inch gauge (psig)/1100°/1100°/1100° double reheat configuration. |
| B-4 | Flue Gas Recirculation Components | Ductwork, blowers, and ancillary equipment used to redirect part of the flue gas back to the combustion chamber for reduction of nitrogen oxides (NO _x) formation. May include fly ash collection in coal fired units. |
| B-5 | Syngas Purification Systems and Gas-Cleanup Units | A system, including all necessary appurtenances, that (1) produces synthesis gas from coal, biomass, petroleum coke, or solid waste and is then converted to electricity via combined cycle power generation equipment and (2) equipment that removes sulfur, carbon, and other polluting compounds from synthesis gas streams. |
| B-6 | Enhanced Heat Recovery Systems | A heating system used to reduce the temperature and humidity of the exhaust gas stream and recover the heat so that it can be returned to the steam generator so as to increase the quantity of steam generated per quantity of fuel consumed. |
| B-7 | Exhaust Heat Recovery Boilers | Used to recover the heat from boiler to generate additional steam. |
| B-8 | Heat Recovery Steam Generators | A counter-flow heat exchanger consisting of a series of super-heater, boiler (or |

| | | |
|-------|---|---|
| | | evaporator) and economizer tube sections, arranged from the gas inlet to the gas outlet to maximize heat recovery from the gas turbine exhaust gas. |
| B-9 | Heat Transfer Sections for Heat Recovery Steam Generators | Super-heaters, Evaporators, Re-heaters and Economizers. |
| B-10 | Enhanced Steam Turbine Systems | Enhanced efficiency steam turbines. |
| B-11 | Methanation | Coal Gasification process that removes carbon and produces methane, including the necessary support systems and appurtenances. |
| B-12 | Coal Combustion or Gasification By-product and Co-product Handling, Storage, and Treatment Facilities | Used for handling, storage, or treatment of by-products or co-products produced (resulting) from the combustion or gasification of coal such as boiler and Gasifier slag, bottom ash, flue gas desulfurization (FGD) material, fly ash, and sulfur. |
| B-13 | Biomass Cofiring Storage, Distribution, and Firing Systems | Installed to reduce pollution by using biomass as a supplementary fuel. |
| B-14 | Coal Cleaning or Drying Processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology | Used to produce a cleaner burning coal (such as coal drying, moisture reduction, air jigging, precombustion decarbonization, or coal flow balancing technology). |
| B-15a | Oxy-Fuel Combustion Technology | Installed to allow the feeding of oxygen, rather than air, and a proportion of recycled flue gases to the boiler. |
| B-15b | Amine or Chilled Ammonia Scrubbing | Installed to provide post combustion capture of pollutants (including carbon dioxide upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating carbon dioxide as a pollutant). |
| B-15c | Catalyst based Systems | Installed to allow the use of catalysts to reduce emissions. |

| | | |
|-------|---|---|
| B-15d | Enhanced Scrubbing Technology | Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber. |
| B-15e | Modified Combustion Technologies | Systems such as chemical looping and biomass co-firing that are designed to enhance pollutant removal. |
| B-15f | Cryogenic Technology | Cryogenic cooling systems used to reduce pollution (including carbon dioxide upon the effective date of a final rule adopted by the EPA regulating carbon dioxide as a pollutant). |
| B-16 | Carbon Dioxide Capture and Geological Sequestration Equipment | Used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is then geologically sequestered in this state. (This item is only in effect upon the effective date of an EPA final rule regulating carbon dioxide as a pollutant.) |
| B-17 | Fuel Cells | Used to generate electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste. |
| B-18 | Regulated Air Pollutant Control Equipment | Any other facility, device, or method designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant. |

(c) Consistent with subsection (a) of this section, the following calculation (cost analysis procedure) must be used to determine the creditable partial percentage for a property that is filed on a Tier III application:

(1) If no marketable product results from the use of the property, use the following equation and enter "0" for the net present value of the marketable product (NPVMP):

Figure: 30 TAC §17.17(c)(1)

$$\frac{(\text{Production Capacity Factor} \times \text{Capital Cost New}) - \text{Capital Cost Old} - \text{NPVMP}}{\text{Capital Cost New}} \times 100$$

Where:

¹ **The Production Capacity Factor (PCF)** is calculated by dividing the capacity of the existing equipment or process by the capacity of the new equipment or process. When there is an increase in production capacity, PCF is used to adjust the capacity of the new equipment or process to the capacity of the existing equipment or process. When there is a decrease in production capacity, PCF is used to adjust the capacity of the existing equipment or process to the production capacity of the new equipment or process. In this case, this calculation is modified so that PCF is applied to Capital Cost Old (CCO) rather than Capital Cost New.

² **Capital Cost New** is the estimated total capital cost of the new equipment or process.

³ **Capital Cost Old** is the cost of comparable equipment or process without the pollution control. The standards used for calculating CCO are as follows:

^{3.1} If comparable equipment without the pollution control feature is on the market in the United States, then an average market price of the most recent generation of technology must be used.

^{3.2} If the conditions in variable 3.1 do not apply and the company is replacing an existing unit that already has received a positive use determination, the company shall use the CCO from the application for the previous use determination.

^{3.3} If the conditions in variable 3.1 and 3.2 do not apply and the company is replacing an existing unit, then the company shall convert the original cost of the unit to today's dollars by using a published industry specific standard. If the production capacity of the new equipment or process is lower than the production capacity of the old equipment or process CCO is divided by the PCF to adjust CCO to reflect the same capacity as CCN.

^{3.4} If the conditions in variables 3.1, 3.2 and 3.3 do not apply, and the company can obtain an estimate of the cost to manufacture the

alternative equipment without the pollution control feature, then an average estimated cost to manufacture the unit must be used. The comparable unit must be the most recent generation of technology. A copy of the estimate must be provided with the worksheet including the specific source of the information.

4.NPVMP --The net present value of the marketable product recovered for the expected lifetime of the property, calculated using the equation in §17.17(c)(2) of this title. Typically, the most recent three-year average price of the material as sold on the open market should be used in the calculation. If the price varies from state-to-state, the applicant shall calculate an average, and explain how the figures were determined.

(2) For property that generates a marketable product (MP), the net present value (NPV) of the MP is used to reduce the partial determination when used in the equation in the figure in paragraph (1) of this subsection. The value of the MP is calculated by subtracting the production costs of the MP from the market value of the MP. This value is then used to calculate the NPV of the MP (NPVMP) over the lifetime of the equipment. The equation for calculating NPVMP is as follows:

Figure: 30 TAC §17.17(c)(2)

$$\text{NPVMP} = \sum_{t=1}^n \frac{(\text{Marketable Product Value} - \text{Production Cost})_t}{(1 + \text{Interest Rate})^t}$$

ⁱ **Marketable Product Value** -- The marketable product value may be calculated one of two ways.

1. The retail value of the product produced by the equipment for one year periods. Typically, the most recent three-year average price of the material as sold on the open market should be used in the calculation. If the price varies from state-to-state, the applicant shall calculate an average, and explain how the figures were determined.

2. If the material is used as an intermediate material in a production process, then the value assigned by to the material for internal accounting purposes may be used. It is the responsibility of the applicant to show that the internally assigned value is comparable to the value assigned by other similar producers of the product.

ii **Production Cost** -- The costs directly attributed to the production of the product, including raw materials, storage, transportation, and personnel, but excluding non-cash costs, such as overhead and depreciation.

iii **n** -- This is the estimated useful life in years of the equipment that is being evaluated for a use determination.

iv **Interest Rate** -- 10%.

(d) If the cost analysis procedure of this section produces a negative number or a zero, the property is not eligible for a positive use determination.

Adopted November 18, 2010

Effective December 13, 2010

§17.20. Application Fees.

(a) Fees shall be remitted with each application for a use determination as required in paragraphs (1) - (3) of this subsection.

(1) Tier I Application--A \$150 fee shall be charged for applications for property that is located in the Tier I Table located in §17.14(a) of this title (relating to Tier I Pollution Control Property), as long as the application seeks no variance from that use determination.

(2) Tier II Application--A \$1,000 fee shall be charged for applications for property that is used wholly for the control of air, water, and/or land pollution, but not in the Tier I Table located in §17.14(a) of this title.

(3) Tier III Application--A \$2,500 fee shall be charged for applications for property used partially for the control of air, water, and/or land pollution.

(b) Fees will be forfeited for applications for use determination on which the executive director will take no further action under §17.12(2) of this title (relating to Application Review Schedule). An applicant who submits an insufficient fee will receive a deficiency notice in accordance with the procedures in §17.12(2) of this title. The fee must be remitted with the response to the deficiency notice before the application will be deemed administratively complete. If it is determined during a technical review that an application was submitted at the wrong tier level, the executive director will notify the applicant of the amount in which the fees are deficient or in excess, and if there are deficient fees, the applicant shall remit the deficient amount of fees before review

of the application continues. If the deficient fees are not paid in full within 30 days of the applicant being notified of the deficiency, the executive director will take no further action on the application. If the executive director takes no further action on the application, the portion of the fees already paid shall be forfeited by the applicant.

(c) All fees shall either be remitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality (TCEQ), by electronic funds transfer, or by using the commission's ePay system.

(d) The check, money order, or electronic funds transfer receipt must be delivered with the application to the commission, at the address listed on the application form.

Adopted November 18, 2010

Effective December 13, 2010

§17.25. Appeals Process.

a) Applicability.

(1) This subchapter applies to all appeals of use determinations issued by the executive director. A proceeding based upon an appeal filed under this subchapter is not a contested case for purposes of Texas Government Code, Chapter 2001.

(2) The following persons may appeal a use determination issued by the executive director:

(A) the applicant seeking a use determination; and

(B) the chief appraiser of the appraisal district for the county in which the property for which a use determination is sought is located.

(b) Form and timing of appeal. An appeal must be in writing and must be filed by United States mail, facsimile, or hand delivery with the chief clerk of the commission within 20 days after the receipt of the executive director's determination letter. A person is presumed to have been notified on the third regular business day after the date the notice of the executive director's action is mailed by first class mail. If an appeal meeting the requirements of this subsection is not filed within the time period specified, the executive director's use determination is final. An appeal filed under this subchapter must:

(1) provide the name, address, and daytime telephone number of the person who files the appeal;

(2) give the name and address of the entity to which the use determination was issued;

(3) provide the use determination application number for the application for which the use determination was issued;

(4) request commission consideration of the use determination; and

(5) explain the basis for the appeal.

(c) Appeal processing. The chief clerk shall:

(1) deliver or mail to the executive director a copy of the appeal;

(2) deliver or mail a copy of the appeal to the applicant if the appeal was filed by the chief appraiser or to the chief appraiser if the appeal was filed by the applicant; and

(3) schedule the appeal for consideration at the next regularly scheduled commission meeting for which adequate notice can be given.

(d) Action by the general counsel. The general counsel may remand a matter from the commission's agenda to the executive director if the executive director or the public interest counsel requests a remand.

(e) Action by the commission.

(1) The person seeking the determination and the chief appraiser may testify at the commission meeting at which the appeal is considered.

(2) The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's use determination.

(3) If the commission denies the appeal and affirms the executive director's use determination, the commission's decision shall be final and appealable in district court.

(f) Action by the executive director.

(1) If the commission remands a use determination to the executive director, the executive director shall:

(A) conduct a new technical review of the application that includes an evaluation of any information presented during the commission meeting; and

(B) upon completion of the technical review, issue a new determination. A copy of the new determination shall be mailed to both the applicant and the chief appraiser of the county in which the property is located.

(2) A new determination by the executive director may be appealed to the commission in the manner provided by this subchapter.

(g) Withdrawn appeals. An appeal may be withdrawn by the entity who requested the appeal. The withdrawal must be in writing, and give the name, address, and daytime telephone number of the person who files the withdrawal, and the withdrawal shall indicate the identification number of the use determination. The withdrawal must be filed by United States mail, facsimile, or hand delivery with the chief clerk of the commission.

Adopted November 18, 2010

Effective December 13, 2010

Derivation Table
Rule Log No. 98050-277-AD
Tax Relief for Pollution Control Equipment
Adopted May 26, 1999
Effective June 17, 1999

Chapter 17 - Tax Relief for Property Used for Environmental Protection

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was prior to the revision.

| New Section | Old Section |
|--------------------|--------------------|
| 17.1 | 277.1 |
| 17.2 | 277.2 |
| 17.4 | 277.4 |
| 17.6 | 277.6 |
| 17.10 | 277.10 |
| 17.12 | 277.12 |

| | |
|------|--------|
| 17.2 | 277.20 |
|------|--------|