

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §116.141, Determination of Fees; §116.143, Payment of Fees; §116.163, Prevention of Significant Deterioration Permit Fees; §116.313, Renewal Application Fees; §116.614, Standard Permit Fees; §116.750, Flexible Permit Fee; and §116.1050, Multiple Plant Permit Application Fee.

The proposed amendments are to be submitted to the United States Environmental Protection Agency (EPA) as proposed revisions to the state implementation plan.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The commission assesses fees when an owner or operator applies for an air permit, air permit renewal, or air permit amendment. Assessment of these fees is required under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.062, Application, Permit, and Inspection Fees, to recover the commission's cost of review.

The commission is proposing to increase the fee rates and the minimum fees to generate sufficient revenue to recover application review costs and fund the commission's air programs. Additionally, the commission is proposing to increase emissions fees and inspection fees in a concurrent 30 TAC Chapter 101 rulemaking as well as proposing to assess a new fee on new permit by rule (PBR) registrations received on or after November 1, 2002 in a concurrent 30 TAC Chapter 106 rulemaking.

The Clean Air Fund 151 is the source of funding for essentially all air program related activities of the commission. This fund supports a wide range of activities including permitting, inspections, enforcement, air quality planning, mobile source program, emissions inventory, and monitoring in addition to agency functions which support these activities. Revenues deposited to the fund are from several different fees collected from point sources and mobile sources as well as the general public. Over the last several years, the fund has carried a balance in the account which has allowed the agency to collect revenues below the annual budgeted expenditures. However, the fund balance is close to being depleted. Additionally, due to decreases in emissions, the revenue from fees which are assessed based upon emission levels has declined by an average of approximately 3% per year in recent years. The revenue estimates for Clean Air Fund 151 reveal that there are insufficient funds to support the fiscal year (FY) 2003 appropriated level.

As part of its air program activities, the commission implements an approved federal operating permit program (Federal Clean Air Act, Titles IV and V, hereinafter referred to as "Title V"). As part of that approval, the commission was required to demonstrate that the fees collected from Title V sources are sufficient to support the Title V program. Currently under state law, this fee must be dedicated for use only on Title V activities. This fee is commonly referred to as the air emissions fee and is currently set at \$26 per ton. However, the fee demonstration submitted to EPA in August 2001 showed that the fee would need to be increased beginning in FY 2003 to provide sufficient support for the Title V program.

Activities which are not considered to be Title V activities must be supported through the remaining fees that are not reserved for other uses. Essentially, these fees generally include permit, renewal, and amendment fees; inspection fees; and a portion of the motor vehicle safety inspection fee (as set by statute, THSC, §382.0622).

Given the declining availability of funds in Clean Air Fund 151, the commission reviewed the air fees which it has the authority to change. Most of the air permit, renewal, and amendment fees have not been increased since the early 1990s. The air emissions fee has not been increased since 1995 and the air inspection fee since 1992. The vehicle inspection maintenance fee has been set recently to cover the cost of that program. Several other funding sources are dedicated for specific uses. In an effort to match fee revenue collections more closely with related expenditures, the commission also reviewed potential sources for new fees. After a review of the commission's existing air program related activity fees, the commission is proposing revisions to the emissions fee, inspection fee, permit, renewal, and amendment fees, as well as proposing a new fee for review of registrations for PBR.

SECTION BY SECTION DISCUSSION

Section 116.141(b), concerning the fee schedule, would be revised to reflect the proposed increases to the minimum fee rate and to the capital cost assessment rate applied to projects that exceed the minimum capital cost threshold. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

Section 116.141(e), concerning applications for projects not involving capital expenditure, would be revised to reflect the increase in the minimum permit fee amount. The intent of this amendment is to ensure a consistent minimum fee for all permit or permit amendment applications under this section.

Section 116.143(a), concerning payment of fees, would be revised to reflect the new agency name and to provide the payment options of certified check and electronic funds transfer.

Section 116.163(a), concerning prevention of significant deterioration (PSD) permit fees, would be revised to increase the minimum fee. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

Section 116.163(b), concerning PSD permit fees, would be revised to reflect the increase in the capital cost assessment rate for projects that exceed the minimum. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

Section 116.313(a), concerning renewal application fees, would be revised to increase the various base fee rates and the minimum fee. The maximum fee would be effective at a lower allowable emission tonnage. Finally, the example fee calculation would change as well to be consistent with the change in fee rates and thresholds. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

Section 116.313(b), concerning renewal application fees, would be revised to reflect the new agency name and to provide the payment options of certified check and electronic funds transfer.

Section 116.614, concerning standard permit fees, would be revised to reflect the increase in the flat fee amount. The intent of this amendment is to increase the commission's revenue collection to recover application review costs, fund the commission's air programs, and match the minimum permit fee under §116.141. Additionally, the revisions would reflect the new agency name and provide the payment options of certified check and electronic funds transfer.

Section 116.750(b), concerning the flexible permit fee, would be revised to reflect increases to the fee rate on allowable emissions and to the minimum fee amount. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

Section 116.750(c), concerning the flexible permit fee, would be revised to reflect the new agency name and to provide the payment options of certified check and electronic funds transfer.

Section 116.1050, concerning the multiple plant permit application fee, would be revised to reflect the increase in the fee amount. The intent of this amendment is to increase the commission's revenue collection to recover application review costs and fund the commission's air programs.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, determined that the proposed rulemaking will generate approximately \$1.0 to \$1.4 million in additional revenue for the commission for each year of the first five-year period the amendments are in effect due to the adjustment of fees assessed for issuance of a New Source Review (NSR) air permit, air permit renewal, air permit amendment, PSD permit, flexible permit, or multiple plant permit. The commission does not anticipate significant fiscal implications for other units of state and local government affected by the proposed amendments.

The fee rate increases proposed in this rulemaking are intended to generate revenue to help recover application review costs and fund the commission's air programs at appropriated levels. The proposed rulemaking would increase the fees assessed for issuance of an NSR air permit, air permit renewal, air permit amendment, PSD permit, flexible permit, or multiple plant permit. The permit and permit amendment fees are based on the capital cost of the project for which a permit is requested. The current rate is 0.15% of the project cost, with a minimum of \$450. The maximum fee (set in statute) for NSR permits and amendments is \$75,000; the maximum fee (set by rule) for renewals is \$10,000. The proposed rulemaking would increase the assessment rate for permits and permit amendments to 0.30% of the project cost and the minimum fee to \$900. The PSD assessment rate would be increased from 0.5% to 1.0% and the minimum permit fee would be increased from \$1,500 to \$3,000. The per-ton fee for flexible permits would be increased from \$25 to \$32, and the minimum would increase from \$450 to \$900. Finally, the minimum multiple plant permit fee would be increased from \$450 to \$900.

The maximum fee amounts of \$75,000 for NSR permits and amendments (set in statute) and \$10,000 for permit renewals (set in rule) would remain in effect.

Units of government most likely to be affected by the proposed rulemaking are municipally-owned electric generating units (power plants) and landfills. The commission currently processes approximately 1,200 new NSR permits, 350 NSR permit amendments, and 100 NSR permit renewals annually, some of which are submitted by units of state and local government.

The proposed rulemaking is not anticipated to have a significant fiscal effect on units of state and local government. For example, a unit of government that plans on \$300,000 in modifications to an affected site would currently pay \$450 for a permit amendment. Adoption of the proposed amendments would increase that amendment fee to \$900. Although the assessment rate and minimum fee would double, the commission does not anticipate that this provision will result in significant additional expenditures for units of state or local government. The total cost to units of government is undetermined, because the commission has no information about future construction or modification activity that would require the account owner or operator to obtain a new permit or permit amendment. Permit renewals are required only once every ten years.

PUBLIC BENEFITS AND COSTS

Mr. Davis also determined that for each of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of implementing the amendments will be the generation of revenue to help recover application review costs and fund the commission's air programs.

The fee rate increases proposed in this rulemaking are intended to generate revenue to help recover application review costs and fund the commission's air programs at appropriated levels. The proposed rulemaking would increase the fees assessed for issuance of an NSR air permit, air permit renewal, air permit amendment, PSD permit, flexible permit, or multiple plant permit. The permit and permit amendment fees are based on the capital cost of the project for which a permit is requested. The current rate is 0.15% of the project cost, with a minimum of \$450. The maximum fee (set in statute) for NSR permits and amendments is \$75,000; the maximum fee (set by rule) for renewals is \$10,000. The proposed rulemaking would increase the assessment rate for permits and permit amendments to 0.30% of the project cost and the minimum fee to \$900. The PSD assessment rate would be increased from 0.5% to 1.0% and the minimum permit fee would be increased from \$1,500 to \$3,000. The per-ton fee for flexible permits would be increased from \$25 to \$32, and the minimum would increase from \$450 to \$900. Finally, the minimum multiple plant permit fee would be increased from \$450 to \$900. The maximum fee amounts of \$75,000 for NSR permits and amendments (set in statute) and \$10,000 for permit renewals (set in rule) would remain in effect.

The commission currently processes approximately 1,200 new NSR permits, 350 NSR permit amendments, and 100 NSR permit renewals annually, the majority of which are submitted by industry. The commission estimates that there are at least 3,400 existing accounts owned and operated by private businesses that would be affected by the proposed amendments.

The proposed rulemaking is not anticipated to have a significant fiscal effect on industry. For example, a facility that plans on \$5,000,000 in modifications to an affected site would currently pay \$7,500 for a permit amendment. Adoption of the proposed amendments would increase that amendment fee to \$15,000. The largest fee increase due to implementation of the proposed amendments would result from an application for a project costing \$25,000,000. Currently, the permit fee for this project would be \$37,500; however, implementation of the proposed amendments would raise the permit fee for this project to the maximum allowable fee of \$75,000. The total cost to industry is undetermined, because the commission has no information about future construction or modification activity that would require the account owner or operator to obtain a new permit or permit amendment. Permit renewals are required only once every ten years.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

There may be adverse fiscal implications, which are not anticipated to be significant, for small or micro-businesses due to implementation of the proposed amendments. This rulemaking is intended to increase the fees assessed for issuance of a NSR air permit, air permit renewal, air permit amendment, PSD permit, flexible permit, or multiple plant permit.

The commission currently processes approximately 1,200 new NSR permits, 350 NSR permit amendments, and 100 NSR permit renewals annually, some of which are submitted by small or micro-businesses. The commission estimates there are at least 1,000 small and micro-businesses with existing NSR permits that could be affected by the proposed amendments. Examples of operations potentially

affected by the proposed amendments that are owned and operated by small and micro-businesses include concrete batch plants and rock crushers.

The proposed rulemaking is not anticipated to have a significant fiscal effect on small or micro-businesses. For example, a small business that plans on \$300,000 in modifications to an affected site would currently pay \$450 for a permit amendment. Adoption of the proposed amendments would increase that amendment fee to \$900. The total cost to small and micro-businesses is undetermined, because the commission has no information about future construction or modification activity that would require the account owner or operator to obtain a new permit or permit amendment. Permit renewals are required only once every ten years.

The following is an analysis of the costs per employee for small and micro-businesses that may be affected by the proposed rulemaking. Small and micro-businesses are defined as having fewer than 100 or 20 employees, respectively. The commission does not have specific capital costs examples for small and micro-businesses seeking NSR permits or permit amendments; however, it is anticipated that those costs would not exceed \$10,000,000. For NSR permit and permit amendments relating to projects with capital costs of \$10,000,000, the proposed rulemaking could cost up to an additional \$150 per employee for small businesses, and up to an additional \$750 per employee for micro-businesses. For renewal permits, the proposed rulemaking could cost up to an additional \$6 per employee for small businesses, and up to an additional \$30 per employee for micro-businesses.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking action is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in that statute. “Major environmental rule” means a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed amendments to Chapter 116 are not, themselves, intended to protect the environment or reduce risks to human health from environmental exposure to air pollutants. Therefore, the commission finds that they are not major “environmental” rules. The permit, amendment, and renewal fees collected under the proposed revisions to Chapter 116 will raise significant amounts of revenue, but are generally a one-time cost that is insignificant based upon the capital costs of the project itself. Therefore, the proposed amendments should not affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

As defined in Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability requirements of a “major environmental rule.”

Specifically, the permit, amendment, and renewal fees are required by state law to be sufficient to support a portion of commission activities related to the overall air quality program (THSC, TCAA, §382.062). This rulemaking does not exceed an express requirement of federal or state law. The rulemaking does not exceed a requirement of a delegation agreement. The rulemaking was not developed solely under the general powers of the agency, but was specifically developed and authorized under TCAA, §§382.011, 382.017, 382.062, 382.0622, and generally under TCAA, §§382.001 *et seq.*

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact evaluation for these rules in accordance with Texas Government Code, §2007.043. The specific purpose of the rulemaking is to raise the permit, amendment, and renewal fees in order to maintain funding sufficient to support a portion of the overall air quality program.

Promulgation and enforcement of the rules will not burden private, real property because they are fee rules which support the commission's air quality programs. Although the rule revisions do not directly prevent a nuisance or prevent an immediate threat to life or property, the permit, amendment, and renewal fees are required by state law to be sufficient to support a portion of commission activities related to the overall air quality program (THSC, TCAA, §382.062). Consequently, the exemption which applies to these rules is that of an action reasonably taken to fulfill an obligation mandated by state law. Therefore, this rulemaking action will not constitute a takings under Texas Government Code, Chapter 2007.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program or will affect an action/authorization identified in §505.11(a)(6), and will, therefore, require that goals and policies of the Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the amendments are consistent with CMP goals and policies because the rulemaking is a fee rule which is a procedural mechanism for paying for commission programs; will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions

subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal in Austin on August 12, 2002, at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle.

The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes before the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Comments may be submitted to Patricia Durón, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2002-041-116-AI. Comments must be received by 5:00 p.m., August 12, 2002. Comments received prior to this publication have been considered and will be formally addressed in the “RESPONSE TO COMMENTS” section of the adoption preamble publication and are not required to be resubmitted. For further information or questions concerning this proposal, please contact Debi Dyer, Policy and Regulations Division, at (512) 239-3972.

SUBCHAPTER B: NEW SOURCE REVIEW PERMITS

DIVISION 4: PERMIT FEES

§116.141, §116.143

STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendments implement TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§116.141. Determination of Fees.

- (a) (No change.)

(b) The following fee schedule shall be used by a permit applicant to determine the fee to be remitted with a permit application.

(1) If the estimated capital cost of the project is less than \$300,000 or if the project consists of new facilities controlled and operated directly by the federal government and the federal regulations for Prevention of Significant Deterioration (PSD) Review do not apply, the fee is \$900 [\$450]. The provisions of subsections (c) and (d) of this section do not apply to a project consisting of new facilities controlled and operated directly by the federal government.

(2) If the estimated capital cost of the project is \$300,000 or more and the PSD regulations do not apply, the fee is 0.30% [0.15%] of the estimated capital cost of the project. The maximum fee is \$75,000. For determination of fees for projects applicable to PSD regulations, see §116.163 of this title (relating to Prevention of Significant Deterioration Permit Fees).

(c) - (d) (No change.)

(e) An applicant for a permit or permit amendment not involving any capital expenditure shall be required to remit the minimum permit fee of \$900 [\$450].

§116.143. Payment of Fees.

All permit fees will be remitted in the form of a check, certified check, electronic funds transfer, or money order made payable to the Texas Commission on Environmental Quality (TCEQ) [Texas Natural Resource Conservation Commission] or TCEQ [TNRCC] and delivered with the application for permit or amendment to the TCEQ [TNRCC], P.O. Box 13087 [13088], MC 214, Austin, Texas 78711-3087 [78711-3088]. Required fees must be received before the agency will begin examination of the application.

(1) - (2) (No change.)

SUBCHAPTER B: NEW SOURCE REVIEW PERMITS

DIVISION 6: PREVENTION OF SIGNIFICANT DETERIORATION REVIEW

§116.163

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendment implements TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§116.163. Prevention of Significant Deterioration Permit Fees.

(a) If the estimated capital cost of the project is less than \$300,000 or if the project consists of new facilities controlled and operated directly by the federal government for which an application is

submitted after January 1, 1987, and the federal regulations for Prevention of Significant Deterioration (PSD) of Air Quality are applicable, the fee is \$3,000 [\$1,500].

(b) If the estimated capital cost of the project is \$300,000 or more and the PSD regulations are applicable, the fee is 1.0% [0.5%] of the estimated capital cost of the project. The maximum fee is \$75,000.

(c) - (e) (No change.)

SUBCHAPTER D: PERMIT RENEWALS

§116.313

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendment implements TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§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.

Figure: 30 TAC §116.313(a)

RENEWAL FEE TABLE*

X = TOTAL ALLOWABLE (TONS/YEAR)	BASE FEE	INCREMENTAL FEE
$X \leq 5$	<u>\$900</u> [\$300]	-
$5 < X \leq 24$	<u>\$900</u> [\$300]	\$35/ton
$24 < X \leq 99$	<u>\$1,565</u> [\$965]	\$25/ton
$99 < X \leq \underline{919}$ [994]	<u>\$3,440</u> [\$2,840]	\$8/ton
$X > \underline{919}$ [994]	\$10,000	--

Minimum fee: \$900 [\$300]

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 \$2,215 [\$1,615] (base fee of \$1,565 [\$965], plus incremental fee of \$25 x 26 tons or \$650).

(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) [Texas Natural Resource Conservation Commission (TNRCC)] and mailed to the TCEQ [TNRCC], P.O. Box 13087 [13088], MC 214, Austin, Texas 78711-3087 [78711-3088]. Required fees must be received before the agency will consider an application to be complete.

SUBCHAPTER F: STANDARD PERMITS

§116.614

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendment implements TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§116.614. Standard Permit Fees.

Any person who registers to use a standard permit or an amended standard permit, or to renew a registration to use a standard permit shall remit, at the time of registration, a flat fee of \$900 [\$450] for each standard permit being registered, unless otherwise specified in a particular standard permit.

No fee is required if a registration is automatically renewed by the commission. All standard permit fees will be remitted in the form of a check, certified check, electronic funds transfer, or money order made payable to the Texas Commission on Environmental Quality (TCEQ) [Texas Natural Resource Conservation Commission (TNRCC)] and delivered with the permit registration to the TCEQ [TNRCC], P.O. Box 13087 [13088], MC 214, Austin, Texas 78711-3087 [78711-3088]. No fees will be refunded.

SUBCHAPTER G: FLEXIBLE PERMITS

§116.750

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendment implements TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§116.750. Flexible Permit Fee.

- (a) (No change.)

(b) Fee amounts. The fee to be remitted with a flexible permit application shall be based on the total annual allowable emissions from the permitted facility, group of facilities, or account for which the flexible permit is being sought. The fee shall be \$32 [\$25] per ton with the minimum fee being \$900 [\$450] and the maximum fee \$75,000. For flexible permit amendments, the fee shall be calculated based on \$32 [\$25] per ton for the incremental emission increase with the minimum fee being \$900 [\$450] and the maximum fee being \$75,000.

(c) Payment of fees. All permit fees for a flexible permit shall be remitted in the form of a check, certified check, electronic funds transfer, or money order made payable to the Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission] and delivered with the application for flexible permit or flexible permit amendment to the commission's New Source Review Permits Division. Required fees must be received before the agency will begin examination of the application.

(d) (No change.)

SUBCHAPTER J: MULTIPLE PLANT PERMITS

§116.1050

STATUTORY AUTHORITY

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under THSC, TCAA, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA. The amendment is also proposed under TCAA, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.062, concerning Application, Permit, and Inspection Fees, which requires the commission to collect fees for inspections; §382.0622, concerning Clean Air Act Fees, which restricts the use of Clean Air Act fees; and the entire TCAA (§§382.001 *et seq.*), which provides authority for all of the air quality programs which the fees are necessary to support.

The proposed amendment implements TCAA, §§382.011, 382.017, 382.062, 382.0622, and TCAA, §§382.001 *et seq.*

§116.1050. Multiple Plant Permit Application Fee.

Any person who applies for a multiple plant permit shall remit, at the time of application for such permit, a fee of \$900 [\$450] plus the estimated public notice cost for the permit consistent with the public notice requirements in §116.1040 of this title (relating to Multiple Plant Permit Public Notice).

(1) - (2) (No change.)