

The Texas Commission on Environmental Quality (commission) adopts amendments to §§106.147, 106.261, and 106.262 *with changes* to the proposed text as published in the July 4, 2003 issue of the *Texas Register* (28 TexReg 5117).

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

Based on the results of protectiveness reviews, the commission adopted a standard permit for asphalt plants under 30 TAC Chapter 116, Subchapter F, Standard Permits on July 9, 2003, that became effective on July 10, 2003. Use of a standard permit will allow the authorization of a greater variety of asphalt plants without the necessity of obtaining a new source review permit. The standard permit replaces the applicable permit by rule. The general public typically expresses concerns over nuisance dust, odor, ambient air quality, and potential negative health impacts from these types of facilities. These issues are the focus of the conditions of the asphalt plant standard permit. The commission is adopting amended §106.147, Asphalt Concrete Plants, prohibiting registration under the permit by rule beginning November 1, 2003 which will be the effective date of this adoption. The commission will retain the permit by rule to allow reference to the conditions under which existing asphalt plants were authorized. The amendment does not revoke current registrations under this permit by rule held by existing asphalt facilities. Section 106.261, Facilities (Emission Limitations) and §106.262, Facilities (Emission and Distance Limitations) (Previously SE 118) are also amended to state that once a standard permit for a type of facility is effective, no construction or change to the facility is allowed under these sections. In addition to affecting asphalt plants, amendments to §106.261 and §106.262 affect other types of facilities that operate under a standard permit. Currently, there are standard permits for pollution control projects, installation/modification of oil and gas facilities, municipal solid waste landfills, temporary rock crushers, concrete batch plants, and electric generating units.

SECTION BY SECTION DISCUSSION

Subchapter E: Aggregate and Pavement

The adopted amendment to §106.147 states that registrations for asphalt plants under this section will no longer be accepted by the commission beginning November 1, 2003. The conditions of the permit by rule protect the public from the effects of emissions. One of these conditions is a separation distance of 1/2 mile between the plant and any residence or recreation area. However, this distance does not prevent new residences or recreation areas from being constructed within the separation distance after the plant is built. The best available control technology in the hot mix asphalt plant standard permit, which became effective on July 10, 2003, will ensure that air quality standards are met at the property line of the plant. The commission has modified the language from proposal to include a specific date when registrations will no longer be accepted under the section.

Subchapter K: General

The adopted amendments to §106.261 and §106.262 add a new subsection (b) to each section and add language prohibiting the use of these permits by rule in certain circumstances if there is a standard permit available for the type of facility being modified or undergoing operational changes. The commission has adopted by rule under Chapter 116, Subchapter F, standard permits for pollution control projects, installation/modification of oil and gas facilities, and municipal solid waste landfills. Standard permits have also been issued for temporary rock crushers, concrete batch plants, and electric generating units. A standard permit for hot mix asphalt plants became effective on July 10, 2003. The adopted amendments to §106.261 and §106.262 incorporate into rule the current agency practice of restricting the use of these permits by rule for construction, or facility changes by facilities for which a standard permit is in effect.

Existing language in §106.261 and §106.262 restricting the use of these specific permits by rule where other permits by rule are available is moved to the newly created subsections. This is being done for consistency in rule structure and will not change the effect of the rule language being moved. The adopted change to §106.262 continues to allow the use of the provisions of the section to add or increase certain chemical emissions once a facility has qualified under a standard permit or permit by rule. The changes to §106.262 also remove an obsolete title of the section for consistency with other section titles in this chapter. In response to public comment, the commission has changed §106.261 and §106.262 to require a six-minute observation interval for measuring opacity and also updated references to the PI-7 form in §106.261.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the adopted rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the amendments do not meet the definition of a “major environmental rule” as defined in that statute. According to §2001.0225(g)(3), a “major environmental rule” is a rule which is specifically intended 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 intent of this adopted rulemaking is to simplify the agency’s regulatory structure, limit the use of permits by rule when facilities have been authorized by standard permits, and also eliminate the asphalt permit by rule as a method for authorizing new plants. The rulemaking is prospective and would not significantly affect facilities currently registered under the existing permits by rule. The adopted amendments to Chapter 106 do not meet the definition of “major environmental rule” because they do not 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 commission estimates that there are currently 400 asphalt plants operating in Texas. All sites that were granted a permit by rule prior to implementation of the new standard permits would only have to apply for a standard or new source review permit if they moved or modified their current operations. Only new applications for asphalt plants subsequent to the implementation of the new standard permits will have to apply for either a standard or new source review permit. To meet the requirements of the standard permit, an applicant will be required to use a fabric filter baghouse. A fabric filter baghouse is best available control technology. The commission receives applications for a permit by rule from approximately 40 asphalt plants annually. This figure includes both new plants and relocating plants. New plants are consistently using the fabric filters as this technology is now common throughout the industry. Therefore, new plants registering under the standard permit should not incur additional cost to meet the more stringent control requirements. Based on a review of records, the commission estimates that approximately 70% of existing asphalt plants currently use fabric filters to control particulate emissions. Based on the number of existing asphalt plants in Texas (400), this leaves about 120 plants that use a scrubber control device and thus would incur an additional \$350,000 cost to install a fabric filter baghouse if they modified or changed locations. However, there is no data to suggest all 120 plants will modify operations or change locations. The commission's records also show that 15 plants moved over a three-year period (2000, 2001, 2002) and authorized the move by the permit by rule. Of these 15 plants, 13 plants already used the fabric filter. Based on these facts, the commission estimates that the requirement to use the fabric filter will affect one or two relocated or modified plants each year and result in an additional \$700,000 cost to the asphalt industry. Therefore, the commission does not anticipate that prohibiting use of the permit by rule for new or relocated asphalt plants will adversely

affect the economy or the asphalt industry of the state in a material way. The commission does not anticipate adverse economic effects resulting from the prohibition on the use of §106.261 and §106.262 at those facilities authorized by standard permit, listed in the SECTION BY SECTION DISCUSSION section of this preamble, as this action will incorporate into rule current agency practice. The commission issues standard permits for more complex facilities with potential for significant emissions. The commission believes that modifications or emission increases at these more complex facilities justify the case-by-case authorization of new source review and does not currently allow the use of §106.261 and §106.262 at facilities authorized by standard permit. In addition, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) 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 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This adopted rulemaking is not subject to the regulatory analysis provisions of §2001.0225(b), because the adopted amendments do not meet any of the four applicability requirements. Specifically, the amendments implement the requirements of Texas Health and Safety Code and Texas Clean Air Act, §382.05196. The commission invited public comment on the draft regulatory impact analysis determination and no comments were received.

TAKINGS IMPACT ASSESSMENT

The commission evaluated this adopted rulemaking action and performed an analysis of whether this action would constitute a takings under Texas Government Code, Chapter 2007. Promulgation and enforcement of these adopted rules would be neither a statutory nor a constitutional taking of private

real property. The adopted rules do not affect private property in a manner which restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, these adopted amendments do not meet the definition of a takings under Texas Government Code, §2007.002(5). These rules specifically amend §106.147 so that modified, relocated, or newly constructed hot mix asphalt plants will be required to operate under the standard permit, which became effective on July 10, 2003, or obtain preconstruction authorization under Chapter 116, Subchapter B, New Source Review Permits. These rules also amend §106.261 and §106.262 to add a new subsection (b) to each section that will prohibit the use of these permits by rule if there is another applicable permit by rule or standard permit available for the type of facility being modified or undergoing operational changes. These facilities will not be precluded from obtaining an air quality permit. Therefore, these amendments to Chapter 106 will not constitute a takings under Texas Government Code, Chapter 2007. The commission invited public comment on the takings impact assessment and no comments were received.

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 rules subject to the Coastal Management Program, and, therefore, required 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; 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.

The policy that is specifically applicable to the emission of air pollutants is 31 TAC §501.14(q), relating to Emission of Air Pollutants, which requires that rules under Texas Health and Safety Code, Chapter 382, governing emissions of air pollutants, shall comply with regulations in 40 Code of Federal Regulations, adopted under Federal Clean Air Act, 42 United States Code, §§7401 *et seq.*, to protect and enhance air quality in the coastal area so as to protect CNRAs and promote the public health, safety, and welfare.

The adopted amendments state that registrations for asphalt plants under §106.147 will no longer be accepted by the commission on or after November 1, 2003, which is the effective date of this adoption. The standard permit states that hot mix asphalt plants authorized by the standard permit must comply with all applicable requirements in 40 Code of Federal Regulations Part 60, Subpart A, General Provisions. This rulemaking will have no significant effect on the activities governed by the rulemaking, nor will it result in any significant adverse impacts to coastal resources.

Based on this review, the commission determined that the rulemaking will not have a direct or significant adverse effect on any coastal natural resource areas, nor will the rulemaking have a substantive effect on commission actions subject to the CMP. The commission invited public comment on the preliminary consistency determination and received no comments.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

Because minor new source review is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits, owners or operators subject to the Federal Operating Permit Program must, consistent with the revision process in Chapter 122, revise their operating permit to include the revised new source review authorizations for their facility, or revise their operating permit application to reflect the new authorizations.

PUBLIC COMMENT

A public hearing on this proposal was held July 28, 2003, and the public comment period closed on August 4, 2003. The commission received two comments, from Lone Star Steel Company (Lone Star) and TXU Energy (TXU).

RESPONSE TO COMMENTS

TXU commented that the prohibition on the use of §106.261 and §106.262 at facilities authorized by standard permits should not apply to facilities that have used a standard permit (§116.617, Standard Permits for Pollution Control Projects) to install pollution control equipment. TXU argued that standard permits authorizing a type of facility have requirements for the facility where the standard permit for pollution control is used to authorize installation of a specific type of equipment to an existing facility.

The commission agrees with the commenter's argument, but no rule change is necessary. The adopted rule language allows the use of permits by rule §106.261 and §106.262 at a facility that has not been authorized by a standard permit. The use of §116.617 to construct a pollution

control project or add pollution control equipment at a facility that has been authorized by new source review does not remove the ability to use §106.261 and §106.262 at other units or areas of the facility, because the entire facility was not authorized under standard permit. Any facility exclusively authorized under §116.617 would be subject to the prohibition on the use of §106.261 and §106.262.

TXU recommended that the opacity requirements in §106.261(a)(5) and §106.262(a)(6) be changed to reflect a six-minute period that is consistent with 30 TAC Chapter 111, Control of Air Pollution From Particulate Matter, and federal rules.

The commission agrees with the commenter and has changed the rules to require measurements over a six-minute period.

Lone Star commented that §106.261 should be amended to remove references to Form PI-7-261 and PI-7-261(a) which have either been discontinued or incorporated into other forms.

The commission appreciates the comment and has made the necessary changes.

SUBCHAPTER E: AGGREGATE AND PAVEMENT

§106.147

STATUTORY AUTHORITY

The amendments are adopted under Texas Health and Safety Code, Texas Clean Air Act, §382.011, which authorizes the commission to administer the requirements of the Texas Clean Air Act; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which would not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which would not make a significant contribution of air contaminants to the atmosphere.

§106.147. Asphalt Concrete Plants.

(a) Any asphalt concrete facility that complies with 40 Code of Federal Regulations Part 60, Subparts A and I and operates according to the following conditions of this section is permitted by rule.

(1) A New Source Performance Standard pretest meeting concerning the required stack sampling shall be held with commission personnel before the required tests are performed. Air contaminants to be tested for will be determined at the pretest meeting. Stack sampling requirements will not be required by the executive director, provided that:

(A) the applicant submits adequate documentation (including copies of previous test results of the model hot mix plant proposed, including a description of the aggregate materials used in previous tests) demonstrating compliance with the 0.04 grain per dry standard cubic feet allowable;

(B) visible emissions from the exhaust stack are documented at 5.0% or less opacity averaged over six consecutive minutes.

(2) Fuel for dryers shall be sweet natural gases as defined in Chapter 101 of this title (relating to General Air Quality Rules) or liquid petroleum gas, diesel, or fuel oil with a maximum sulfur content of 1.5%.

(3) All aggregate stockpiles shall be sprinkled with water and/or chemicals as necessary to achieve maximum control of dust emissions.

(4) All permanent in-plant roads shall be watered, oiled, or paved and cleaned as necessary to achieve maximum control of dust emissions.

(5) The plant is located at least 1/2 mile from any recreational area or residence or other structure not occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(6) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration in Austin using Form PI-7, including a current Table 22.

(7) Emissions of particulate matter, sulfur dioxide, or organic compounds shall not exceed 25 tons per year each.

(b) Beginning November 1, 2003, registrations under this section will no longer be accepted.

SUBCHAPTER K: GENERAL

§106.261, §106.262

STATUTORY AUTHORITY

The amendments are adopted under Texas Health and Safety Code, Texas Clean Air Act, §382.011, which authorizes the commission to administer the requirements of the Texas Clean Air Act; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which would not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which would not make a significant contribution of air contaminants to the atmosphere.

§106.261. Facilities (Emission Limitations).

(a) Except as specified under subsection (b) of this section, facilities, or physical or operational changes to a facility, are permitted by rule provided that all of the following conditions of this section are satisfied.

(1) The facilities or changes shall be located at least 100 feet from any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facilities or the owner of the property upon which the facilities are located.

(2) Total new or increased emissions, including fugitives, shall not exceed 6.0 pounds per hour (lb/hr) and ten tons per year of the following materials: acetylene, argon, butane, crude oil, refinery petroleum fractions (except for pyrolysis naphthas and pyrolysis gasoline) containing less than ten volume percent benzene, carbon monoxide, cyclohexane, cyclohexene, cyclopentane, ethyl acetate, ethanol, ethyl ether, ethylene, fluorocarbons Numbers 11, 12, 13, 14, 21, 22, 23, 113, 114, 115, and 116, helium, isohexane, isopropyl alcohol, methyl acetylene, methyl chloroform, methyl cyclohexane, neon, nonane, oxides of nitrogen, propane, propyl alcohol, propylene, propyl ether, sulfur dioxide, alumina, calcium carbonate, calcium silicate, cellulose fiber, cement dust, emery dust, glycerin mist, gypsum, iron oxide dust, kaolin, limestone, magnesite, marble, pentaerythritol, plaster of paris, silicon, silicon carbide, starch, sucrose, zinc stearate, or zinc oxide.

(3) Total new or increased emissions, including fugitives, shall not exceed 1.0 lb/hr of any chemical having a limit value (L) greater than 200 milligrams per cubic meter (mg/m^3) as listed and referenced in Table 262 of §106.262 of this title (relating to Facilities (Emission and Distance Limitations)) or of any other chemical not listed or referenced in Table 262. Emissions of a chemical with a limit value of less than $200 \text{ mg}/\text{m}^3$ are not allowed under this section.

(4) For physical changes or modifications to existing facilities, there shall be no changes to or additions of any air pollution abatement equipment.

(5) Visible emissions, except uncombined water, to the atmosphere from any point or fugitive source shall not exceed 5.0% opacity in any six-minute period.

(6) For emission increases of five tons per year or greater, notification must be provided using Form PI-7 within ten days following the installation or modification of the facilities. The notification shall include a description of the project, calculations, data identifying specific chemical names, limit values, and a description of pollution control equipment, if any.

(7) For emission increases of less than five tons per year, notification must be provided using either:

(A) Form PI-7 within ten days following the installation or modification of the facilities. The notification shall include a description of the project, calculations, data identifying specific chemical names, limit values, and a description of pollution control equipment, if any; or

(B) Form PI-7 by March 31 of the following year summarizing all uses of this permit by rule in the previous calendar year. This annual notification shall include a description of the project, calculations, data identifying specific chemical names, limit values, and a description of pollution control equipment, if any.

(b) The following are not authorized under this section:

(1) construction of a facility authorized in another section of this chapter or for which a standard permit is in effect; and

(2) any change to any facility authorized under another section of this chapter or authorized under a standard permit.

§106.262. Facilities (Emission and Distance Limitations).

(a) Facilities, or physical or operational changes to a facility, are permitted by rule provided that all of the following conditions of this section are satisfied.

(1) Emission points associated with the facilities or changes shall be located at least 100 feet from any off-plant receptor. Off-plant receptor means any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facilities or the owner of the property upon which the facilities are located.

(2) New or increased emissions, including fugitives, of chemicals shall not be emitted in a quantity greater than five tons per year nor in a quantity greater than E as determined using the equation $E = L/K$ and the following table.

Figure 1: 30 TAC §106.262(a)(2)

<u>D, Feet</u>	<u>K</u>	E = maximum allowable hourly emission, and never to exceed 6 pounds per hour.
100	326	
200	200	
300	139	
400	104	

500	81	L = value as listed or referenced in Table 262
600	65	
700	54	
800	46	K = value from the table on this page.
900	39	(interpolate intermediate values)
1,000	34	
2,000	14	D = distance to the nearest off-plant receptor.
3,000 or more	8	

Figure 2: 30 TAC §106.262(a)(2)

TABLE 262

LIMIT VALUES (L) FOR USE WITH EXEMPTIONS FROM PERMITTING §106.262

The values are not to be interpreted as acceptable health effects values relative to the issuance of any permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification).

<u>Compound</u>	<u>Limit (L)</u> <u>Milligrams Per Cubic Meter</u>
Acetone	590.
Acetaldehyde	9.
Acetone Cyanohydrin	4.
Acetonitrile	34.
Acetylene	2662.
N-Amyl Acetate	2.7
Sec-Amyl Acetate	1.1
Benzene	3.
Beryllium and Compounds	0.0005
Boron Trifluoride, as HF	0.5
Butyl Alcohol, -	76.
Butyl Acrylate	19.
Butyl Chromate	0.01
Butyl Glycidyl Ether	30.
Butyl Mercaptan	0.3
Butyraldehyde	1.4
Butyric Acid	1.8
Butyronitrile	22.
Carbon Tetrachloride	12.
Chloroform	10.
Chlorophenol	0.2
Chloroprene	3.6

<u>Compound</u>	<u>Limit (L)</u> <u>Milligrams Per Cubic Meter</u>
Chromic Acid	0.01
Chromium Metal, Chromium II and III Compounds	0.1
Chromium VI Compounds	0.01
Coal Tar Pitch Volatiles	0.1
Creosote	0.1
Cresol	0.5
Cumene	50.
Dicyclopentadiene	3.1
Diethylaminoethanol	5.5
Diisobutyl Ketone	63.9
Dimethyl Aniline	6.4
Dioxane	3.6
Dipropylamine	8.4
Ethyl Acrylate	0.5
Ethylene Dibromide	0.38
Ethylene Glycol	26.
Ethylene Glycol Dinitrate	0.1
Ethylidene-2-norbornene, 5-	7.
Ethyl Mercaptan	0.08
Ethyl Sulfide	1.6
Glycolonitrile	5.
Halothane	16
Heptane	350.
Hexanediamine, 1,6-	0.32
Hydrogen Chloride	1.
Hydrogen Fluoride	0.5
Hydrogen Sulfide	1.1
Isoamyl Acetate	133.
Isoamyl Alcohol	15.
Isobutyronitrile	22.
Kepone	0.001

<u>Compound</u>	<u>Limit (L)</u> <u>Milligrams Per Cubic Meter</u>
Kerosene	100.
Malononitrile	8.
Mesityl Oxide	40.
Methyl Acrylate	5.8
Methyl Amyl Ketone	9.4
Methyl-t-butyl ether	45.
Methyl Butyl Ketone	4.
Methyl Disulfide	2.2
Methylenebis (2-chloroaniline) (MOCA)	0.003
Methylene Chloride	26.
Methyl Isoamyl Ketone	5.6
Methyl Mercaptan	0.2
Methyl Methacrylate	34.
Methyl Propyl Ketone	530.
Methyl Sulfide	0.3
Mineral Spirits	350.
Naphtha	350.
Nickel, Inorganic Compounds	0.015
Nitroglycerine	0.1
Nitropropane	5.
Octane	350.
Parathion	0.05
Pentane	350.
Perchloroethylene	33.5
Petroleum Ether	350
Phenyl Mercaptan	0.4
Propionitrile	14.
Propyl Acetate	62.6
Propylene Oxide	20.
Propyl Mercaptan	0.23
Silica-amorphous- precipitated, silica gel	4.

<u>Compound</u>	<u>Limit (L)</u> <u>Milligrams Per Cubic Meter</u>
Silicon Carbide	4.
Stoddard Solvent	350.
Styrene	21.
Succinonitrile	20.
Tolidine	0.02
Trichloroethylene	135.
Trimethylamine	0.1
Valeric Acid	0.34
Vinyl Acetate	15.
Vinyl Chloride	2.

NOTE: The time weighted average (TWA) Threshold Limit Value (TLV) published by the American Conference of Governmental Industrial Hygienists (ACGIH), in its TLVs and BEIs guide (1997 Edition) shall be used for compounds not included in the table. The Short Term Exposure Level (STEL) or Ceiling Limit (annotated with a “C”) published by the ACGIH shall be used for compounds that do not have a published TWA TLV. This section cannot be used if the compound is not listed in the table or does not have a published TWA TLV, STEL, or Ceiling Limit in the ACGIH TLVs and BEIs guide.

(3) Notification must be provided using Form PI-7 within ten days following the installation or modification of the facilities. The notification shall include a description of the project, calculations, and data identifying specific chemical names, L values, D values, and a description of pollution control equipment, if any.

(4) The facilities in which the following chemicals will be handled shall be located at least 300 feet from the nearest property line and 600 feet from any off-plant receptor and the cumulative amount of any of the following chemicals resulting from one or more authorizations under this section (but not including permit authorizations) shall not exceed 500 pounds on the plant property and all listed chemicals shall be handled only in unheated containers operated in compliance with the United States Department of Transportation regulations (49 Code of Federal Regulations, Parts 171-178): acrolein, allyl chloride, ammonia (anhydrous), arsine, boron trifluoride, bromine, carbon disulfide, chlorine, chlorine dioxide, chlorine trifluoride, chloroacetaldehyde, chloropicrin, chloroprene, diazomethane, diborane, diglycidyl ether, dimethylhydrazine, ethyleneimine, ethyl mercaptan, fluorine, formaldehyde (anhydrous), hydrogen bromide, hydrogen chloride, hydrogen cyanide, hydrogen fluoride, hydrogen selenide, hydrogen sulfide, ketene, methylamine, methyl bromide, methyl hydrazine, methyl isocyanate, methyl mercaptan, nickel carbonyl, nitric acid, nitric oxide, nitrogen dioxide, oxygen difluoride, ozone, pentaborane, perchloromethyl mercaptan, perchloryl fluoride, phosgene, phosphine, phosphorus trichloride, selenium hexafluoride, stibine, liquified sulfur dioxide, sulfur pentafluoride, and tellurium hexafluoride. Containers of these chemicals may not be vented or opened directly to the atmosphere at any time.

(5) For physical changes or modifications to existing facilities, there shall be no changes or additions of air pollution abatement equipment.

(6) Visible emissions, except uncombined water, to the atmosphere from any point or fugitive source shall not exceed 5.0% opacity in any six-minute period.

(b) The following are not authorized under this section except as noted in subsection (c) of this section:

(1) construction of a facility authorized in another section of this chapter or for which a standard permit is in effect; and

(2) any change to any facility authorized under another section of this chapter or authorized under a standard permit.

(c) If a facility has been authorized under another section of this chapter or under a standard permit, subsection (a)(2) and (3) of this section may be used to qualify the use of other chemicals at the facility.

