

The Texas Commission on Environmental Quality (commission) proposes an amendment to §101.1.

If adopted, the amendment will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULE

After adoption of the Federal Clean Air Act (FCAA) Amendments of 1990, the EPA classified the designated four areas of Texas that failed to meet the one-hour national ambient air quality standard (NAAQS) for the air contaminant ozone. Each area was classified by the EPA based on the amount by which it exceeded the ozone NAAQS of 0.12 parts per million (ppm) based on a peak one-hour concentration of ozone. Eight counties in the Houston/Galveston/Brazoria (HGB) area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller) were classified as Severe and El Paso County was classified as Serious. Four counties in the Dallas/Fort Worth (DFW) area (Collin, Dallas, Denton, and Tarrant) were originally classified as Moderate and then reclassified to Serious. Three counties in the Beaumont/Port Arthur (BPA) area (Hardin, Jefferson, and Orange) were originally classified as Serious, then reclassified to Moderate, and reclassified again, in 2004, to Serious.

Effective June 15, 2004, EPA designated and classified four areas in Texas as nonattainment for the eight-hour ozone standard (69 FR 23858). The HGB area was classified as Moderate and contains the same eight counties that were classified as Severe under the one-hour standard: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller. The DFW area was also classified as

Moderate and consists of the counties classified as Serious under the one-hour standard: Dallas, Tarrant, Denton, and Collin Counties, plus five additional counties: Ellis, Johnson, Kaufman, Parker, and Rockwall. The BPA area was classified as Marginal and consists of the three counties classified as Serious under the one-hour standard: Hardin, Jefferson, and Orange. The El Paso area consisting of El Paso County is now designated as attainment. In addition, the San Antonio area, consisting of Bexar, Comal, and Guadalupe Counties, was also designated as nonattainment under the FCAA, Title I, Part D, Subpart 1 (42 United States Code (USC), §7402), but with a deferred effective date of September 30, 2005, due to its status as an early action compact (EAC) area. EPA noted in the eight-hour ozone designation and classification rulemaking that EAC areas will continue to remain eligible for deferred effective dates as long as they remain in compliance with their compact agreements. The classification of nonattainment areas was codified in 40 Code of Federal Regulations (CFR), and this amendment will update the commission rules to match the new federal classifications.

On November 29, 2004, EPA added five volatile organic compounds (VOC) to the list of compounds in 40 CFR §51.100(s) that, for lack of reactivity, are excluded from the definition of VOC. The definition of VOC is based on compound reactivity and the compound's tendency to produce ozone. The compounds include 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (known as HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (known as HFE-7500, HFE-s702, T-7145, and L-15381); 1,1,1,2,3,3,3-heptafluoropropane (known as HFC 227ea); methyl formate; and t-butyl acetate (also known as tertiary butyl acetate, TBAC, or TBAc). EPA revised the definition of VOC to say that TBAC will not be a VOC for purposes of VOC emissions limitations or VOC content requirement, but will continue to be a VOC for purposes of all recordkeeping, emissions reporting, and

inventory requirements that apply to a VOC. The commission is proposing to delete the list of compounds from the commission definition and to refer to the federal definition in 40 CFR §51.100 as amended on November 29, 2004 (69 FR 69290 - 69304).

SECTION DISCUSSION

§101.1, Definitions

The commission proposes to amend the definition of nonattainment area in paragraph (67) to reflect the classifications under the existing one-hour standard, and to add the classifications under the new eight-hour ozone standard. The classifications under the new standard are the Moderate classification for the HGB and DFW areas, including five additional counties, and the Marginal classification for the BPA area. The San Antonio area is designated as nonattainment under the FCAA, Title I, Part D, Subpart 1 (42 USC, §7402), but with a deferred effective date of September 30, 2005, due to its status as an EAC area. The El Paso area is in attainment for the eight-hour ozone standard and therefore is not listed under new subparagraph (F). Existing subparagraph (F) is proposed to be relettered as subparagraph (G).

The commission also proposes to amend the definition of VOC in paragraph (111) by deleting the existing list of compounds and by referring to the federal definition in 40 CFR §51.100(s), except paragraphs (2) - (4), as amended on November 29, 2004 (69 FR 69290 - 69304). The federal definition includes a special case for the compound t-butyl acetate, which will not be considered a VOC for emission limitation or content purposes but will be considered a VOC for emissions reporting and inventories and photochemical modeling.

The commission proposes to make administrative changes for readability, conformity with the drafting standards in the *Texas Legislative Council Drafting Manual*, October 2002, and consistency with other commission rules.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Grants Management Section, determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rule. The proposed rulemaking would change the definitions of nonattainment area and VOC, along with administrative changes for readability, conformity with drafting standards, and consistency.

EPA's implementation of the eight-hour ozone standard on June 15, 2004, designated El Paso County as an attainment area and designated the HGB nonattainment area as Moderate. The BPA nonattainment area is classified as Serious for the one-hour standards and as Marginal for the eight-hour standard. The DFW nonattainment area, which included Dallas, Tarrant, Denton, and Collin Counties, is classified as Serious under the one-hour ozone standard. When implementing the eight-hour ozone standard, EPA added five counties (Ellis, Johnson, Kaufman, Parker, and Rockwall) to the DFW nonattainment area and designated the entire area as Moderate. EPA also designated a new area under the eight-hour standard, San Antonio, as nonattainment under the FCAA, Title I, Part D, Subpart 1 (42 USC, §7402), with a deferred effective date of September 30, 2005. The proposed rulemaking would amend the definition of nonattainment area to include EPA's new eight-hour classifications for the

BPA, DFW, and HGB areas; add the five newly designated counties to the DFW area; and add the San Antonio area.

PUBLIC BENEFITS AND COSTS

Ms. Chamness also determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated from the changes seen in the proposed rule would be compliance with federal standards.

The proposed amendment results from EPA's nonattainment designations under the eight-hour ozone standard, and EPA's anticipated revocation of the one-hour standard. This amendment will not change the level of emission control in the counties that were classified as nonattainment under the one-hour standard. Adoption of the designations under the eight-hour standard does result in the addition of Ellis, Johnson, Kaufman, Parker, and Rockwall Counties to the four counties already in the DFW nonattainment area and the addition of the San Antonio area as nonattainment areas for ozone. Major sources located in the counties added to the DFW nonattainment area and the San Antonio area could have significant costs if required to upgrade their emission control equipment from best available control technology (BACT) to lowest achievable emission rate (LAER). The designation of the counties as nonattainment does not in itself mean that emission controls must be immediately upgraded or additional controls installed. Sources that undergo major modifications would be subject to LAER, but the commission does not have information indicating which, if any, sources are going to be affected. Because San Antonio is participating in the Early Action Compact Program, its designation may never become effective. The commission expects cost increases to be mostly limited to large

combustion sources because of the limited industrialization of the new nonattainment counties. The change to the federal definition for VOC removed five compounds from the list because they were minimally reactive toward the formation of ozone. These compounds will also be removed from the commission's definition of VOC, since the commission only regulates VOC based on its reactivity. The commission will now reference the EPA definition of VOC in its rules.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses. Small or micro-businesses are less likely to operate activities generating major sources of emissions. If small or micro-businesses do own or operate a major source of air contaminants, they will experience the same types of cost increases as those experienced by large businesses that are major sources of emissions.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rulemaking does not meet the definition of a "major environmental rule." Furthermore, it does not meet any of the four applicability requirements listed in §2001.0225(a). A "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 amendment revises the definition of nonattainment area to reflect the new classifications under the eight-hour standard for the BPA, DFW, and HGB areas; adds the five newly designated counties in the DFW area; and adds the San Antonio area. The proposed amendment would also incorporate a change to the federal definition for VOC, which became effective November 29, 2004. The proposed amendment will 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.

In addition, Texas Government Code, §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. The proposed amendment does not exceed a standard set by federal law or exceed an express requirement of state law. There is no contract or delegation agreement that covers the topic that is the subject of this rulemaking. Finally, this rulemaking was not developed solely under the general powers of the agency, but is authorized by specific sections of the Texas Health and Safety Code and Texas Water Code, which are cited in the STATUTORY AUTHORITY section of this preamble. Therefore, this

rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b), because the proposed amendment does not meet any of the four applicability requirements.

The commission invites public comment regarding the draft regulatory impact analysis determination during the public comment period.

TAKINGS IMPACT ASSESSMENT

The commission completed a takings impact analysis for the proposed amendment. The specific purpose of this rulemaking is to amend the definition of nonattainment area to reflect the new classifications for the BPA, DFW, and HGB areas; add the five newly designated counties in the DFW area; and add the San Antonio area. The EPA has indicated that the one-hour standard will be revoked on June 15, 2005. The proposed amendment would also incorporate a change to the federal definition for VOC, which became effective November 29, 2004. Promulgation and enforcement of the proposed amendment would be neither a statutory nor a constitutional taking because it does not affect private real property. Specifically, the proposed amendment does not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Therefore, the proposed amendment does not constitute a takings under Texas Government Code, Chapter 2007.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission determined that this rulemaking action relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 *et seq.*), and the commission rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the CMP. As required by §281.45(a)(3) and 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and determined that the action is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking action is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l)). No new sources of air contaminants will be authorized and the proposed revisions will maintain the same level of emissions control as the existing rules. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with federal regulations in 40 CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.14(q)). This rulemaking action complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §505.22(e), the commission affirms that this rulemaking action is consistent with CMP goals and policies.

The commission solicits comments on the consistency of the proposed rulemaking with the CMP during the public comment period.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

Section 101.1 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits.

Upon the effective date of this rulemaking, owners or operators subject to the Federal Operating Permit Program will be required to certify compliance with amended §101.1.

ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal in Austin on March 17, 2005, at 10:00 a.m. in Building F, Room 2210, 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 Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808.

Comments must be received by 5:00 p.m., March 28, 2005, and should reference Rule Project Number 2005-009-116-AI. Copies of the proposed rule can be obtained from the commission's Web site at

<http://www.tnrcc.state.tx.us/oprdrules/propadop.html>. For further information, please contact Beecher Cameron, Air Permits Division, at (512) 239-1495 or Michael Bame, Policy and Regulations Division, at (512) 239-5658.

SUBCHAPTER A: GENERAL RULES

§101.1

STATUTORY AUTHORITY

The amendment is proposed under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also proposed under Texas Health and Safety Code, §382.002, concerning Policy and Purpose, which establishes the commission purpose to safeguard the state air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state air; and §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits and adopt rules necessary for permits issued under Texas Health and Safety Code, Chapter 382.

The proposed amendment implements Texas Health and Safety Code, §§382.002, 382.011, 382.012, and 382.051.

§101.1. Definitions.

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

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

(2) - (6) (No change.)

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

(8) - (11) (No change.)

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

(13) - (14) (No change.)

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

(16) - (21) (No change.)

(22) ***De minimis impact*** - A change in ground level concentration of an air contaminant as a result of the operation of any new major stationary source or of the operation of any existing source that [which] has undergone a major modification, which does not exceed the following specified amounts.

Figure: 30 TAC §101.1(22) (No change.)

(23) - (25) (No change.)

(26) **Emissions reduction credit** - Any stationary source emissions reduction that [which] has been banked in accordance with Chapter 101, Subchapter H, Division 1 of this title (relating to Emission Credit Banking and Trading).

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

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

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

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

(31) (No change.)

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

(33) - (34) (No change.)

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

(36) - (42) (No change.)

(43) **High-volume low-pressure spray guns** - Equipment used to apply coatings by means of a spray gun that [which] operates between 0.1 and 10.0 pounds per square inch gauge air pressure.

(44) **Incinerator** - An enclosed combustion apparatus and attachments that [which] is used in the process of burning wastes for the primary purpose of reducing its volume and weight by

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

(45) (No change.)

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

(47) (No change.)

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

(49) - (51) (No change.)

(52) **Maintenance area** - A geographic region of the state previously designated nonattainment under the Federal Clean Air Act (FCAA) [FCAA] Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under 42 United States Code, §7505a [FCAA, §175A, as amended]. The following are the maintenance areas within the state:

(A) - (B) (No change.)

(53) **Maintenance plan** - A revision to the applicable state implementation plan, meeting the requirements of 42 United States Code, §7505a [FCAA, §175A].

(54) (No change.)

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

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

(57) - (63) (No change.)

(64) **National ambient air quality standard** - Those standards established under 42 United States Code, §7409 [FCAA, §109], including standards for carbon monoxide, lead, nitrogen dioxide, ozone, inhalable particulate matter, and sulfur dioxide.

(65) - (66) (No change.)

(67) **Nonattainment area** - A defined region within the state that [which] is designated by the United States Environmental Protection Agency (EPA) [EPA] as failing to meet the national ambient air quality standard for a pollutant for which a standard exists. The EPA designates [will designate] the area as nonattainment under the provisions of 42 United States Code, §7407(d) [FCAA, §107(d)]. For the official list and boundaries of nonattainment areas, see 40 Code of Federal Regulations Part 81 and pertinent *Federal Register* (FR) notices. The following areas comprise the

nonattainment areas within the state for all national ambient air quality standards (NAAQS). EPA has indicated that it will revoke the one-hour ozone standard in full, including the associated designations and classifications, on June 15, 2005, which is one year following the effective date of the designations for the eight-hour NAAQS of June 15, 2004.

(A) - (D) (No change.)

(E) Ozone (one-hour).

(i) Houston/Galveston/Brazoria one-hour [Houston/Galveston] ozone nonattainment area (56 FR 56694) - Classified as a Severe-17 ozone nonattainment area. Consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

(ii) El Paso one-hour ozone nonattainment area (56 FR 56694) - Classified as a Serious ozone nonattainment area. Consists of El Paso County.

(iii) Beaumont/Port Arthur one-hour ozone nonattainment area (69 FR 16483 [(61 FR 14496)] - Classified as a Serious [Moderate] ozone nonattainment area. Consists of Hardin, Jefferson, and Orange Counties.

(iv) Dallas/Fort Worth one-hour ozone nonattainment area (63 FR 8128) - Classified as a Serious ozone nonattainment area. Consists of Collin, Dallas, Denton, and Tarrant Counties.

(F) Ozone (eight-hour).

(i) Houston/Galveston/Brazoria eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Moderate ozone nonattainment area. Consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

(ii) Beaumont/Port Arthur eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Marginal ozone nonattainment area. Consists of Hardin, Jefferson, and Orange Counties.

(iii) Dallas/Fort Worth eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Moderate ozone nonattainment area. Consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties.

(iv) San Antonio eight-hour ozone nonattainment area (69 FR 23936) - Classified under the Federal Clean Air Act, Title I, Part D, Subpart 1 (42 United States Code, §7502), nonattainment deferred to September 30, 2005, or as extended by EPA.

(G) [(F)] Sulfur dioxide. No designated nonattainment areas.

(68) - (69) (No change.)

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

(71) **Outdoor burning** - Any fire or smoke-producing process that [which] is not conducted in a combustion unit.

(72) (No change.)

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

(74) (No change.)

(75) **PM₁₀** - Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on 40 Code of Federal Regulations (CFR) Part 50, Appendix J₂ and designated in accordance with 40 CFR Part 53, or by an equivalent method designated with that Part 53.

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

(77) - (78) (No change.)

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

(80) (No change.)

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

(82) - (83) (No change.)

(84) **Reportable quantity (RQ)** - Is as follows:

(A) for individual air contaminant compounds and specifically listed mixtures,
either:

(i) the lowest of the quantities:

(I) - (II) (No change.)

(III) listed as follows:

(-a-) (No change.)

(-b-) butenes (any isomer, except 1,3-butadiene) -
5,000 pounds, except in the Houston/Galveston/Brazoria (HGB) [Houston/Galveston (HGA)] and
Beaumont/Port Arthur (BPA) ozone nonattainment areas as defined in paragraph (67)(E)(i) and (iii) of
this section, where the RQ shall be 100 pounds;

(-c-) ethylene - 5,000 pounds, except in the HGB
[HGA] and BPA ozone nonattainment areas as defined in paragraph (67)(E)(i) and (iii) of this section,
where the RQ shall be 100 pounds;

(-d-) - (-f-) (No change.)

(-g-) propylene - 5,000 pounds, except in the HGB
[HGA] and BPA ozone nonattainment areas as defined in paragraph (67)(E)(i) and (iii) of this section,
where the RQ shall be 100 pounds;

(-h-) - (-m-) (No change.)

(-n-) acetaldehyde - 1,000 pounds, except in the HGB
[HGA] and BPA ozone nonattainment areas as defined in paragraph (67)(E)(i) and (iii) of this section,
where the RQ shall be 100 pounds;

(-o-) toluene - 1,000 pounds, except in the HGB [HGA] and BPA ozone nonattainment areas as defined in paragraph (67)(E)(i) and (E)(iii) of this section, where the RQ shall be 100 pounds;

(-p-) - (-q-) (No change.)

(ii) (No change.)

(B) for mixtures of air contaminant compounds:

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

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

(iii) - (iv) (No change.)

(C) - (D) (No change.)

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

(86) **Scheduled maintenance, startup, or shutdown activity** - For activities with unauthorized emissions that [which] are expected to exceed a reportable quantity (RQ), a scheduled maintenance, startup, or shutdown activity is an activity for which the owner or operator of the facility provides timely prior notice and a final report as required by §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements); the notice or final report includes the information required in §101.211 of this title; and the actual unauthorized emissions from the activity do not exceed the emissions estimates submitted in the initial notification. For activities with unauthorized emissions that [which] are not expected to, and do not, exceed an RQ, a scheduled maintenance, startup, or shutdown activity is one that is recorded as required by §101.211 of this title. Expected excess opacity events as described in §101.201(e) of this title (relating to Emissions Event Reporting and Recordkeeping Requirements) resulting from scheduled maintenance, startup, or shutdown activities are those that provide prior notice (if required), and are recorded and reported as required by §101.211 of this title.

(87) **Site** - For the purposes of Subchapter F of this chapter, means [shall mean] all regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated by the same person. Site includes any property identified in the permit or used in connection with the regulated activity at the same street address or location.

(88) - (90) (No change.)

(91) **Sour crude** - A crude oil that [which] will emit a sour gas when in equilibrium at atmospheric pressure.

(92) - (93) (No change.)

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

(95) (No change.)

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

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

(98) - (103) (No change.)

(104) **Unauthorized emissions** - Emissions of any air contaminant except carbon dioxide, water, nitrogen, methane, ethane, noble gases, hydrogen, and oxygen that exceed [which exceeds] any air emission limitation in a permit, rule, or order of the commission or as authorized by Texas Clean Air Act [TCAA], §382.0518(g).

(105) - (109) (No change.)

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

(111) **Volatile organic compound** - As defined in 40 Code of Federal Regulations §51.100(s), except §51.100(s)(2) - (4), as amended on November 29, 2004 (69 FR 69290 - 69304).
[Any compound of carbon or mixture of carbon compounds excluding methane; ethane; 1,1,1-trichloroethane (methyl chloroform); methylene chloride (dichloromethane); perchloroethylene

(tetrachloroethylene); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1-chloro-1-fluoroethane (HCFC-151a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane; 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane; 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane; 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane; methyl acetate; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; and perfluorocarbon compounds which fall into these classes:]

[(A) cyclic, branched, or linear, completely fluorinated alkanes;]

[(B) cyclic, branched, or linear, completely fluorinated ethers with no
unsaturations;]

[(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no
unsaturations; and]

[(D) sulfur-containing perfluorocarbons with no unsaturations and with sulfur
bonds only to carbon and fluorine.]

(112) (No change.)